Calendar No. 381

100TH CONGRESS
1st Session

SENATE

REPORT
100-201

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS OF 1987

OCTOBER 20 (legislative day, OCTOBER 16), 1987.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 278]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 278) to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the act, and for other purposes, having considered the same, reports favorably thereon with an amendment to the text and recommends that the act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) this Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1987".

(b) Unless otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or subsection, the reference shall be considered to be made to a section or subsection of the Alaska Native Claims Settlement Act of 1971, as amended (43 U.S.C. 1601-1629a).

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress finds and declares that—

(1) the Alaska Native Claims Settlement Act was enacted in 1971 to achieve a fair and just settlement of all aboriginal land and hunting and fishing claims by Natives and Native groups of Alaska with maximum participation by Natives in decisions affecting their rights and property;

S 313-39

(2) the settlement enabled Natives to participate in the subsequent expansion of Alaska's economy, encouraged efforts to address serious health and welfare problems in Native villages, and sparked a resurgency of interest in the cultural heritage of the Native peoples of Alaska;

(3) despite these achievements and Congress's desire that the settlement be accomplished rapidly without litigation and in conformity with the real economic and social needs of Natives, the complexity of the land conveyance process and frequent and costly litigation have delayed implementation of the settlement and diminished its value;

(4) Natives have differing opinions as to whether the Native Corporation, as originally structured by the Alaska Native Claims Settlement Act, is well adapted to the reality of life in Native villages and to the continuation of traditional Native cultural values;

(5) to ensure the continued success of the settlement and to guarantee Natives continued participation in decisions affecting their rights and property, the Alaska Native Claims Settlement Act must be amended to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs;

(6) among other things, the shareholders of each Native Corporation must be permitted to decide—

(A) when restrictions on alienation of stock issued as part of the settlement should be terminated, and

(B) whether Natives born after December 18, 1971, should participate in the settlement;

(7) by granting the shareholders of each Native Corporation options to structure the further implementation of the settlement, Congress is not expressing an opinion on the matter in which such shareholders choose to balance individual rights and communal rights;

(8) no provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) shall—

(A) supersede the declaration of policy set forth in section 2 of the Alaska Native Claims Settlement Act of 1971,

(B) rescind the extinguishment of aboriginal land claims and hunting and fishing rights effected by section 4 of that Act, or

(C) confer on any Native organization any degree of sovereign governmental authority over lands (including management, or regulation of the taking, of fish and wildlife) or persons in Alaska; and

(9) the Alaska Native Claims Settlement Act, as amended, and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs.

NEW DEFINITIONS

SEC. 3. Section 3 (43 U.S.C. 1602) is amended—

(1) by inserting "group," after "individual," in subsection (h);

(2) by striking out "and" at the end of subsection (k);

(3) by striking out the period at the end of subsection (1) and inserting in lieu thereof a semicolon;

(4) by striking out "Native Group." in subsection (m) and inserting in lieu thereof "Group Corporation;"; and

(5) by adding at the end thereof the following new subsections:

"(n) 'Group Corporation' means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this Act;

"(o) 'Urban Corporation' means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community or Natives in accordance with the terms of this Act;

"(p) 'Settlement Common Stock' means stock of a Native Corporation issued pursuant to section 7(g)(1) that carries with it the rights and restrictions listed in section 7(h)(1);

"(q) 'Replacement Common Stock' means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 7(h)(3);

"(r) 'Descendant of a Native' means—

"(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

"(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

"(A) occurred prior to his or her majority, and

"(B) is recognized at law or in equity;

"(s) 'alienability restrictions' means the restrictions imposed on Settlement Common Stock by section 7(h)(1)(B); and

"(t) 'State-Chartered Settlement Trust' means a trust established by a Native Corporation under the laws of the State of Alaska for the sole benefit of holders of its Settlement Common Stock.".

ISSUANCE OF STOCK

SEC. 4. Subsection (g) of section 7 (43 U.S.C. 1606(g)) is amended to read as follows:

"(g) (1) SETTLEMENT COMMON STOCK.—(A) The Regional Corportion shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this Act) as may be needed to issue 100 shares of stock to each Native enrolled in the region pursuant to section 5.

"(B) (i) Notwithstanding any other provision of law, a Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

"(I) Natives born after December 18, 1971,

"(II) Natives who were eligible for enrollment pursuant to section 5 but were not so enrolled, or

"(III) Natives who have attained the age of sixty-five,

for no consideration or for such consideration as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

"(ii) Not more than 100 shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

"(iii) In amending its articles of incorporation pursuant to clause (i), a Regional Corporation may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h) (3) or section 37(d)) shall be deemed cancelled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

"(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) unless, prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

"(C) (i) Notwithstanding any other provision of law, a Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(2) OTHER FORMS OF STOCK.—(A) Notwithstanding any other provision of law, a Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

"(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, and

"(ii) issuance of such shares shall permanently preclude the corporation from—

"(I) conveying assets to a State-Chartered Settlement Trust, or

"(II) issuing shares of stock without adequate consideration as required under the laws of the State.

"(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following—

"(i) divide into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

"(I) dividend rights,

"(II) voting rights, and

"(III) liquidation preferences;

"(ii) made subject to one or more of—

"(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h) (1) (B), and

"(II) the restriction described in paragraph (1) (B) (iii); and

"(iii) restricted in issuance to—

"(I) Natives who have attained the age of sixty-five;

"(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family; or

"(III) State-Chartered Settlement Trusts; or

"(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

"(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

"(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

"(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B) (iii)).

"(D) During the period in which alienability restrictions are in effect, no stock, whose issuance is authorized pursuant to subparagraph (A), shall be—

"(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

"(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

"(3) DISCLOSURE REQUIREMENTS.—(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify—

"(i) the maximum number of shares of any class or series of stock that may be issued, and

"(ii) the maximum number of votes that may be held by such shares.

"(B) If an amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) authorizes the issuance of classes or series of stock that, when issued singly or in combination, may cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purpose of electing directors, the shareholders of such corporation shall be expressly so advised in a proxy statement or other informational material distributed to such shareholders in advance of their vote on the amendment.

"(4) SAVINGS.—(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m). No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

"(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 for purposes of distributing funds pursuant to subsections (j) and (m).

"(B) The issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i).

"(C) No provision of this Act shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this Act.".

SETTLEMENT COMMON STOCK

Sec. 5. Subsection (h) of section 7 (43 U.S.C. 1606(h)) is amended to read as follows:

"(h)(1) Rights and Restrictions.—(A) Except as otherwise expressly provided in this Act, Settlement Common Stock of a Regional Corporation shall—

"(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

"(ii) permit the holder to receive dividends or other distributions from the corporation; and

"(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

"(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be—

"(i) sold;

"(ii) pledged;

"(iii) subjected to a lien or judgment execution;

"(iv) assigned in present or future;

"(v) treated as an asset under—

"(I) title 11 of the United States Code or any successor statute,

"(II) any other insolvency or moratorium law, or

"(III) other laws generally affecting creditors' rights; or

"(vi) otherwise alienated.

"(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendant of a Native—

"(i) pursuant to a court decree of separation, divorce, or child support;

"(ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or

"(iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, or nephew.

"(D) A transfer made pursuant to subparagraph (C)(iii) shall not subject the holder or his or her child, grandchild, great-grandchild, niece, or nephew to any form of Federal, State, or local taxation.

"(2) Inheritance of Settlement Common Stock.—(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless cancelled in accordance with subsection (g)(1)(B)(iii) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of interstate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of interstate succession, the stock shall escheat to the issuing Regional Corporation and be cancelled.

"(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable law of interstate succession to a person not a Native or a descendant of a Native after the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987 if—

"(i) the corporation—

"(I) amends its articles of incorporation to authorize such purchases, and

"(II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the laws of the State or receives notice that such heirs have been determined, whichever later occurs; and

"(ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

"(C) Settlement Common Stock of a Regional Corporation—

"(i) transferred by will or pursuant to applicable laws of intestate succession after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 or

"(ii) transferred by any means prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

to a person not a Native or a descendant of a Native shall not carry voting rights. If at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

"(3) Replacement Common Stock.—(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 37, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed cancelled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that subsection.

"(ii) Prior to the termination of alienability restrictions, the board of directors of the Native Corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) shall be exchanged either for—

"(I) a share of Replacement Common Stock that carries such right, or

"(II) a share of Replacement Common Stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such terms as may be provided in the amendment to the articles of imcorporation authorizing the issuance of such class of Settlement Common Stock.

"(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

"(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following—

"(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

"(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's immediate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

"(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

"(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.".

VILLAGE, URBAN, AND GROUP CORPORATIONS

SEC. 6. Subsection (c) of section 8 (43 U.S.C. 1607(c)) is amended to read as follows:

"(c) APPLICABILITY OF SECTION 7.—The provisions of subsections (g), (h), and (o) of section 7 of this Act shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.".

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

SEC. 7. The Alaska Native Claims Settlement Act of 1971, as amended, if further amended by adding the following new section:

"PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

"SEC. 36. (a) COVERAGE.—Notwithstanding any provision of the articles of incorporation and bylaws of a Native Corporation or of the laws of the State, except those related to proxy statements and solicitations that are not inconsistent with this section—

"(1) an amendment to the articles of incorporation of a Native Corporation authorized by subsections (g) and (h) of section 7, subsection (d)(1)(B) of this section, or section 37; or

"(2) a resolution authorized by section 38(a)(2);

shall be considered in accordance with the provisions of this section.

"(b) BASIC PROCEDURE.—(1) An amendment or resolution described in subsection (a) may be approved by the board of directors of a Native Corporation in accordance with its bylaws. If the board approves the amendment or resolution, it shall direct that the amendment or resolution be submitted to a vote of the shareholders at the next annual meeting or at a special meeting (if the board, at its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

“(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) and the statements described therein shall be sent, not less than 50 days nor more than 60 days prior to the meeting of the shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

“(B) The board of directors, at its discretion, may exclude from a communication made to the shareholders regarding an amendment or resolution approved pursuant to paragraph (1) information concerning the value of land, or any interest in land, received by the corporation pursuant to this Act if such land or interest in land is committed by the corporation to traditional or cultural uses or is of speculative value on the date such communication is prepared. The exclusion of such information shall be disclosed to the shareholders of the corporation in such communication. No provision of this subparagraph shall be interpreted to require the disclosure of such information in other circumstances.

“(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

“(c) SHAREHOLDER PETITIONS.—(1)(A) With respect to an amendment authorized by section 7(g)(1)(B) or section 37(b) or an amendment authorizing the issuance of stock subject to the restrictions provided by section 7(g)(2)(B)(iii), the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board of directors to submit such amendment to a vote of the shareholders in accordance with the provisions of this section.

“(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation with a class of equity securities registered pursuant to the Securities Exchange Act of 1934, as amended (48 Stat. 881). If a petition meets the applicable solicitation requirements and—

“(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

“(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

“(2) Paragraph (1) shall not apply to a Native Corporation that elects application of section 37(d) in lieu of section 37(b). Paragraph (1) shall not apply to a Native Corporation that elects application of section 37(c) in lieu of section 37(b) until December 18, 1991. Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for such corporations.

“(d) VOTING STANDARDS.—(1) An amendment or resolution described in subsection (a) shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

“(A) a majority of the total voting power of the corporation, or

“(B) a level of the total voting power of the corporation greater than a majority (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

“(2) A Native Corporation in amending its articles of incorporation pursuant to section 7(g)(2) to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) (other than an amendment authorized by section 37) in order for such amendment or resolution to be approved.

"(e) VOTING POWER.—For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.".

DURATION OF ALIENABILITY RESTRICTIONS

SEC. 8. The Alaska Native Claims Settlement Act, as amended, is further amended by adding the following new section:

"DURATION OF ALIENABILITY RESTRICTIONS

"SEC. 37. (a) GENERAL RULE.—Alienability restrictions shall continue until terminated in accordance with the procedures established by this section.

"(b) OPT-OUT PROCEDURE.—(1) A Native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Such an amendment may be considered and voted on not more than once prior to December 18, 1991, and not more than once annually thereafter.

"(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

"(3) Rejection of an amendment authorized by paragraph (1) by the shareholders of a Native Corporation shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(c) RECAPITALIZATION PROCEDURE.—(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its article of incorporation to implement a recapitalization plan pursuant to this subsection. Rejection of an amendment or amendments to implement a recapitalization plan by the shareholders shall not preclude consideration of a subsequent amendment or amendments to implement such a plan prior to December 18, 1991.

"(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for—

"(i) an indefinite period of time;

"(ii) a specified period of time not to exceed fifty years; or

"(iii) a period of time that shall end upon the occurrence of a specified event or condition, including a shift in the capital structure of the corporation such that stock other than Settlement Common Stock represents a majority of the total voting power of the corporation for the purpose of electing directors.

"(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

"(D) Notwithstanding any other provision of law, the board of directors may ask the shareholders to approve *en bloc* pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section 7(g) and, in the case of Cook Inlet Region, Inc., an amendment to authorize a plan providing for the issuance and sale of stock, other than Settlement Common Stock, to officers and employees) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

"(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

"(B)(i) Notwithstanding any other provision of this subsection, a Native Corporation that approves an amendment pursuant to pararaph (1) to maintain or extend alienability restrictions may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Settlement Common Stock (issued pursuant to section 7(g)(1)(A)) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to sections 7(j) and 7(m)) upon completion of the recapitalization plan, then such holder shall have no right under section 38 to further compensation from the corporation with respect to action taken pursuant to this subsection.

"(d) OPT-IN PROCEDURE.—(1)(A) Subsection (b) shall not apply to a Native Corporation whose board of directors approves, no later than one year after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, a resolution electing the application of this subsection.

"(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

"(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

"(B) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January 1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

"(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for—

"(i) an indefinite period of time, or

"(ii) a specified period of time not to exceed fifty years.

"(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

"(3) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (2)(D).

"(4)(A) Notwithstanding any other provision of this section, a Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendents to terminate alienability restrictions.

"(5)(A) If a Native Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who—

"(i) voted against such amendment, and

"(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B).

shall notify the corporation within ninety days of the date of the vote of the shareholders on the amendment of his or her desire.

"(B) Within one hundred and twenty days of the date of the vote described in subparagraph (A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either—

"(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or "(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 38(a)(1)(B).

"(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. Notwithstanding any other provision of law, no dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

"(6)(A) If the board of directors of a Native Corporation approves a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed cancelled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 7(g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that section.

"(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 7 shall be exchanged either for—

"(I) a share of alienable common stock carrying such right, or

"(II) a share of alienable common stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following—

"(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

"(II) any other term, restriction, limitation, or other provision permitted under the laws of the State.

"(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement with the provisions of the resolution authorized by paragraph (5)(B).

"(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

"(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

"(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying—

"(I) that such transferee is or is not a Native or a descendant of a Native;

"(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

"(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 13(d) of the Securities Exchange Act of 1934, as amended, and the regulations of the Securities and Exchange Commission promulgated thereunder; and

"(IV) that such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Native or descendants of Natives).

"(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

"(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares—

"(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

"(II) investment power, which includes the power to dispose, or to direct the disposition of, such security.

"(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 13(d) of the Securities Exchange Act of 1934, as amended, shall be deemed for purposes of such sections to be the beneficial owner of such security.

"(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.".

DISSENTERS RIGHTS

SEC. 9. The Alaska Native Claims Settlement Act of 1971, as amended, is further amended by adding the following new section:

"DISSENTERS RIGHTS

"SEC. 38. (a) COVERAGE.—(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation—

"(A) fail to approve an amendment authorized by section 37(b) to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

"(B) approve an amendment authorized by section 37(d) to continue alienability restrictions without issuing alienable common stock pursuant to section 37(d)(6), a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

"(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if contemporaneously with the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

"(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

"(b) RELATIONSHIP TO STATE PROCEDURE.—(1) Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2).

"(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

"(c) VALUATION OF STOCK.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2)—

"(A) the Settlement Common Stock shall be valued as restricted stock; and

"(B) the value of land, or an interest in land, received by the corporation pursuant to this Act shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased if such land, or interest in land—

"(i) is committed by the corporation to traditional or cultural uses, or

"(ii) is of speculative value,

on the date the vote described in subsection (a)(1) is conducted.

"(2) No person shall have a claim against the Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

"(d) Form of Payment.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

"(A) a payment bond issued by an insurance company or financial institution;

"(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

"(C) a lien upon the real property interests of the corporation valued at 125 per centum or more of the face amount of the note, other than lands or interests in land that are committed to traditional or cultural uses and the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 7(i).

"(2) A note issued pursuant to paragraph (1) shall provide that—

"(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) occurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

"(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1).

"(e) Dividend Adjustment.—(1) The cash payment made pursuant to subsection (a) or the principal amount of a note issued pursuant to subsection (d) to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1).

"(2) Upon receipt of a cash payment pursuant to subsection (a) or a note pursuant to subsection (d), a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.".

STATE-CHARTERED SETTLEMENT TRUST OPTION

Sec. 10. The Alaska Native Claims Settlement Act, as amended, is further amended by adding the following new section:

"STATE-CHARTERED SETTLEMENT TRUST OPTION

"Sec. 39. (a) Conveyance of Corporate Assets to a State-Chartered Settlement Trust.—(1) Notwithstanding any other provision of law and in addition to any other authority, a Native Corporation may convey assets (excluding title to, or any other interest in, subsurface estate in land received pursuant to this Act), stock, or beneficial interests to a State-Chartered Settlement Trust established by the corporation in accordance with the laws of the State and the provisions of this section. A conveyance of title to, or any other interest in, subsurface estate of land received pursuant to this Act in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(2)(A) Notwithstanding any provision of the laws of the State, a Native Corporation that has established a State-Chartered Settlement Trust shall have sole authority to—

"(I) appoint the trustees of the trust, and

"(II) remove the trustees of the trust for cause.

an appointment or removal of a trustee in violation of this provision shall be void ab initio and shall not be given effect by any court.

"(B) Notwithstanding any other provision of the laws of the State, a Native Corporation that has established a State-Chartered Settlement Trust may—

"(i) expand the class of beneficiaries to include holders of Settlement Common Stock issued after the creation of the trust without compensation to the original beneficiaries; and

"(ii) amend the specific purposes for which the trust was established so long as such amendment does not conflict with the provisions of subparagraph (C).

"(C) The general purpose of a State-Chartered Settlement Trust shall be to preserve the heritage and culture of Natives and to promote the health, education, and welfare of its beneficiaries. A State-Chartered Settlement Trust shall not—

"(i) operate as a business;

"(ii) alienate land or any interest in land received from the settlor Native Corporation; or

"(iii) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation.

An alienation of land or an interest in land in violation of this provision shall be void ab initio and shall not be given effect by any court.

"(3) So long as the establishment and operation of a State-Chartered Settlement Trust complies with the conditions established in this subsection, the trust shall not be held to violate any laws against perpetuities.

"(4)(A) The initial trust instrument prepared by a Village Corporation, Urban Corporation, or Group Corporation to establish a State-Chartered Settlement Trust shall be reviewed by the Regional Corporation for the region in which the Village Corporation, Urban Corporation, or Group Corporation is located. The Regional Corporation may approve, disapprove, or refuse to act on the trust instrument in its sole and unreviewable discretion. If the trust instrument is not approved by the Regional Corporation, it shall be of no force and effect. Amendments to the trust instrument, if made within three years of the creation of the trust, shall also be subject to the review and approval of the Regional Corporation in accordance with the provisions of this subparagraph.

"(B) No provision of this paragraph shall create a fiduciary obligation on the part of a Regional Corporation with respect to—

"(i) its review of a trust instrument or amendments thereto of a Village Corporation, Urban Corporation, or Group Corporation, or

"(ii) the operation of the State-Chartered Settlement Trust governed by such instrument.

"(b) SAVINGS.—(1) The provisions of this Act (including, but not limited to, section 14) shall continue to apply to any land, or interest in land, conveyed to a State-Chartered Settlement Trust as if the land, or interest in land, were still held by the Native Corporation that conveyed the land, or interest in land.

"(2) No timber resources subject to section 7(i) conveyed to a State-Chartered Settlement Trust shall be harvested for sale, exchanged, or otherwise conveyed (other than a reconveyance to the Regional Corporation that made the original conveyance) except as necessary to—

"(A) dispose of diseased or dying timber or to prevent the spread of disease or insect infestation;

"(B) prevent or suppress fire; and

"(C) ensure public safety.

The revenue, if any, from such timber harvests shall be paid to the Regional Corporation that made the original conveyance and shall be subject to section 7(i) as if such conveyance had not occurred.

"(3) Notwithstanding any other provision of law, the conveyance of assets, stock, or beneficial interests pursuant to subsection (a) to a State-Chartered Settlement Trust shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 7(i)) to which such assets, stock, or beneficial interests were expressly or potentially subject immediately prior to such conveyance.

"(4) A claim made pursuant to paragraphs (1), (2), and (3) shall be enforceable against the State-Chartered Settlement Trust holding the land, interest in land, or other assets, stock, or beneficial interests in question to the same extent as such claim would have been enforceable against the transferor or Native Corporation. No transferee State-Chartered Settlement Trust shall make a distribution or conveyance of assets (including cash), stock, or beneficial interests that would render it unable to satisfy a claim made pursuant to paragraphs (1), (2), and (3). A distribution or conveyance made in violation of this provision shall be void ab initio and shall not be given effect by any court.".

ALASKA LAND BANK

SEC. 11. Section 907 of the Alaska National Interest Lands Conservation Act of 1980 (43 U.S.C. 1636) is amended—

(a) by striking out "subsection (c)(2)" throughout the section and inserting in lieu thereof "subsection (d)(1)";

(b) in the proviso of subsection (a), by striking out "lands not owned by landowners described in subsection (c)(2) shall not" and inserting in lieu thereof "no lands shall";

(c) by amending subsections (c), (d), and (e) to read as follows:

"(c) BENEFITS TO PRIVATE LANDOWNERS.—(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

"(2) The provisions of section 21(e) of the Alaska Native Claims Settlement Act of 1971, as amended, shall apply to all lands which are subject to an agreement made pursuant to this section so long as the parties to the agreement are in compliance therewith.

"(d) AUTOMATIC PROTECTIONS FOR LANDS CONVEYED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—(1) Notwithstanding any other provision of law, all land, and interests in land, conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act of 1971, as amended, to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a State-Chartered Settlement Trust shall be exempt, so long as such land and interests are not developed (or leased or sold to third parties) from—

"(A) adverse possession and similar claims based upon estoppel;

"(B) real property taxes by any governmental entity;

"(C) judgments resulting from any claim based upon or arising under—

"(i) title 11 of the United States Code or any successor statute,

"(ii) other insolvency or moratorium laws, or

"(iii) other laws generally affecting creditors' rights;

"(D) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or State-Chartered Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

"(E) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation or State-Chartered Settlement Trust.

"(2) DEFINITIONS.—(A) For purposes of this subsection, the term—

"(i) 'Developed' means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemptions will be terminated only with respect to the smallest practicable tract actually used in the developed state;

"(ii) 'Exploration' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

"(iii) 'leased' means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a lease that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

"(B) For purposes of this subsection—

'(i) land shall not be considered developed solely as a result of—

"(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence or other customary or traditional uses of such land, or

(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

"(ii) land upon which timber resoures are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; and

"(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date of final approval of the subdivision plat unless the subdivided property is a remainder parcel.

"(3) Action by a Trustee.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settlement Act of 1971, as amended, no trustee, receiver, or custodian vested pursuant to applicable federal or state law with a right, title, or interest of a Native individual or Native Corporation shall—

"(i)) assign or lease to a third party,

"(ii) commence development or use of, or

"(iii) convey to third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

"(B) The prohibitions of subparagraph (A) shall not apply—

"(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act of 1971, as amended; or

"(ii) to any land, or interest in land, which has been—

"(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

"(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement.

"(4) Exclusions, Reattachment of Exemptions.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

"(i) developed (or leased or sold to a third party);

"(ii) held by a Native Corporation in which neither—

"(I) the Settlement Common Stock of the corporation,

"(II) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock, nor

"(III) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of either the total equity of the corporation or the total voting power of the corporation for the purposes of electing directors; or

"(iii) held by a State-Chartered Settlement Trust with respect to which any of the conditions set forth in section 39 of the Alaska Native Claims Settlement Act of 1971, as amended, have been violated.

"(B) The exemptions described in paragraphs (1)(C), (1)(D), and (1)(E), shall not apply to any land, or interest in land—

"(i) if, and for so long as, such land or interest is expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement, and

"(ii) to the extent necessary to enforce a judgment in any action at law or in equity (or any arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act of 1971, as amended.

"(C) If the exemptions listed in paragraph (1) are terminated with respect to land, or an interest in land, as a result of development (or a lease to a third party), and such land, or interest in land, subsequently reverts to an undeveloped state (or the third-party lease is terminated), then the exemptions shall gain apply to such land, or interest in land, in accordance with the provisions of this subsection.

"(5) Tax Recapture Upon Subdivision Plat Approval.—Upon the final approval by an appropriate government authority of a subdivision plat submitted by, or on behalf of, a Native individual, Native Corporation, or State-Chartered Settlement Trust with respect to land described in paragraph (1), such individual, corporation, or trust shall pay all state and local property taxes on the smallest practicable tract integrally related to the subdivision project that would have been incurred by the individual, corporation, or trust on such land (excluding the value of subsurface resources and timber) in the absence of the exemption described in paragraph (1)(B) during the thirty months prior to the date of the final approval of the plat. The state and local property taxes (together with interest at the rate of five per centum per annum commencing on the date of final approval of the subdivision plat) shall be paid in equal semi-annual installments over a two year period commencing on the date six months after the date of final approval of the subdivision plat.

"(6) Savings.—No provision of this subsection shall be construed to impair, or otherwise affect, any valid contract or other obligation that was entered into prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(e) CONDEMNATION.—Notwithstanding any other provision of law, all land subject to an agreement made pursuant to subsection (a) and all land, and interests in land, conveyed or subsequently reconveyed pursuant to the Alaska Native Claims Settlement Act of 1971, as amended, to a Native individual, Native Corporation, or State-Chartered Settlement Trust shall be subject to condemnation for public purposes in accordance with the laws of the State."; and

(d) by adding at the end thereof the following new subsection:

"(g) STATE JURISDICTION.—Except as expressly provided in subsection (d), no provision of this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.".

CONFORMING AMENDMENTS

SEC. 12. (a) SECTION 7.—Subsection (o) of section 7 (43 U.S.C. 1606) is amended to strike everything following the word "stockholder" except the period at the end of the subsection.

(b) SECTION 21.—Section 21 (43 U.S.C. 1620) is amended—

(1) by inserting after "distributions" in subsection (a) "(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources)";

(2) by inserting at the end of subsection (c) the following: "First commercial development shall not occur solely because of the receipt of advance payments, including bonuses or royalties, that may qualify for depletion deductions.";

(3) by striking out "Village Corporation" and inserting in lieu thereof "Native Corporation" in subsection (j);

(4) by striking out everything after "one and one-half acres:" in subsection (j) and inserting in lieu thereof: "*Provided further*, That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annual calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder."; and

(5) by adding at the end thereof the following new subsection:

"(k) The adjusted basis for determining gain or loss, for Federal, State, and local income tax purposes, of—

"(1) stock of a Native Corporation received by a holder directly from the corporation pursuant to this Act (including, but not limited to, Settlement Common Stock and Replacement Common Stock);

"(2) stock of a Native Corporation issued by the corporation as a dividend or distribution on its outstanding stock; or

"(3) stock described in paragraphs (1) and (2) which is acquired (before such stock is first actively traded on an established market) by gift or through inheritance,

shall be the highest of the adjusted basis of the property of the corporation allocable to such stock, the original basis of the property of the corporation allocable to such stock, or the highest sales price of the stock on an established market during the first ten days of trading. The corporation shall make this basis determination when such stock is first actively traded on an established market or, if it is not so traded, at any time the determination is necessary. The corproation shall notify the holders of the stock of its determination.".

(c) SECTION 30.—Subsection (b) of section 30 (43 U.S.C. 1627(b)) is amended by striking out "prior to December 19, 1991" and inserting in lieu thereof "while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.".

(d) SECURITIES EXCHANGE ACT OF 1934.—Section 13(d)(1) of the Securities Exchange Act of 1934 is amended by inserting "or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act of 1971, as amended" after "Investment Company Act of 1940".

SEVERABILITY

SEC. 13. Section 27 (85 Stat. 688) is amended to read as follows:

"SEVERABILITY

"SEC. 27. The provisions of this Act, as amended, and the Alaska Native Claims Settlement Act Amendments of 1987 are severable. If any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provison of either Act.”.

SECURITIES LAWS EXEMPTION

SEC. 14. Section 28 (43 U.S.C. 1625) is amended to read as follows:

“SECURITIES LAWS EXEMPTION

“SEC. 28. (a) A Native Corporation shall be exempt from the provisons, as amended, of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881) until the earlier of the day after—

“(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where—

“(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

“(B) the shares are issued to persons or entities other than—

“(i) individuals who held shares in the corporation on the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987;

“(ii) Natives,

“(iii) descendants of Natives,

“(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 7(h)(2),

“(v) State-Chartered Settlement Trusts, or

“(vi) entities established for the sole benefit of Natives or descendants of Natives;

“(2) the date on which alienability restrictions are terminated; or

“(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 or the Securities Exchange Act of 1934.

“(b) No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) after any of the dates described in subsection (a).

“(c)(1) A Native Corporation that, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to that Act.

“(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a), holders of Settlement Common stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

“(d) Notwithstanding any other provision of law, the provisions of the Investment Company Act of 1940 shall not apply to any Native Corporation prior to January 1, 2001.”.

ELIGIBILITY FOR FEDERAL PROGRAMS, MINORITY STATUS

SEC. 15. Section 29 (43 U.S.C. 1626) is amended by adding the following new subsections:

“(c) In determining the eligibility of a household, an individual Native, or a descendent of a Native to—

“(1) participate in the Food Stamp program,

“(2) receive assistance under the Social Security Act, or

“(3) receive financial assistance or benefits under any other Federal program or federally-assisted program,

no compensation (including in-kind or cash dividends on stock received from a Native Corporation to the extent such dividends do not, in the aggregate, exceed $2,000 per individual per annum), stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock), partnership interest, land or interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock), or other benefits received by such individual, such household, or a member of such household under this Act shall be taken into account, regardless of whether such compensation, stock, partnership interest, land or interest in land, or other benefit is subject to Federal, State, or local taxation.

"(d) Notwithstanding any other provision on law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

"(e)(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives and a minority business enterprise if—

"(A) the Settlement Common Stock of the corporation,

"(B) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock, or

"(C) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

"(2) For all purposes of Federal law, direct and indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation qualifying pursuant to paragraph (1) shall be considered to be an entity owned and controlled by Natives and a minority business enterprise if the shares of stock or other units of ownership interest held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

"(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

"(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers.

"(3) No provision of this subsection shall—

"(A) preclude a Federal agency or instrumentality from applying standards for determining minority ownership (or control) less restrictive than those described in paragraph (1) and (2), or

"(B) supersede any such less restrictive standards in existence on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(f)(1) Section 3 of Public Law 97-451 (96 Stat. 2448) is amended by inserting 'or which is administered by the United States pursuant to section 14(g) of Public Law 92-203, as amended' after 'alienation' in subsection (3) and subsection (4).

"(2) The amendment made by paragraph (1) shall be effective as if originally included in section 3 of Public Law 97-451.

"(g) For the purposes of implementation of the Civil Rights Act of 1964, a Native Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class defined in section 701(b) of Public Law 88-352 (78 Stat. 253), as amended, or successor statutes.".

JUDICIAL REVIEW

SEC. 16. (a) STATUTE OF LIMITATIONS.—(1) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of an amendment made by, or other provision of, this Act (the Alaska Native Claims Settlement Act Amendments of 1987) shall be barred unless—

(A) if the civil action challenges—

(i) the issuance or distribution of Settlement Common Stock for less than fair market value consideration pursuant to section 7(g)(1)(B) or 7(g)(2)(C)(ii) of the Alaska Native Claims Settlement Act of 1971, as amended; or

(ii) an extension of alienability restrictions that involves the issuance of stock pursuant to subsections (c) or (d) of section 37 of the Alaska Native Claims Settlement Act of 1971, as amended;

the civil action is filed within six months of the date of the shareholder vote authorizing the challenged issuance, distribution, or extension and a request for a declaratory judgment or injunctive relief is made before stock is issued or distributed; or

(B) with respect to any other civil action, the civil action is filed within two years of the date of the enactment of this Act.

(2) No Native Corporation taking an action described in paragraph (1)(A) shall issue or distribute stock within fourteen days of the date of the shareholder vote authorizing such action.

(b) JURISDICTION AND PROCEDURE.—(1) The United States District Court for the District of Alaska shall have exclusive original jurisdiction over a civil action described in subsection (a). The action shall be heard and determined by a court of three judges as provided in section 2284 of title 28 of the United States Code. An appeal of the final judgment in the action shall be made directly to the United States Supreme Court.

(2) No money judgment shall be entered against the United States in a civil action subject to this section.

(c) STATEMENT OF PURPOSE.—The purpose of the limitation on civil actions established by this section is—

(1) to ensure that after the expiration of a reasonable period of time, Native shareholders, Native Corporations, the United States, and the State and its political subdivisions will be able to plan their affairs with certainty in full reliance on the provisions of this act, and

(2) to eliminate the possibility that the United States will incur a monetary liability as a result of the enactment of this Act.

DISCLAIMER

SEC. 17. No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987), exercise of authority pursuant to this Act, or change made by, or pursuant to, this Act in the status of land shall be construed to validate or invalidate or in any way affect—

(1) any assertion that a Native organization (including a federally-recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska, or

(2) any assertion that Indian country (as defined by 18 U.S.C. 1151 or any other authority) exists or does not exist within the boundaries of the State of Alaska.

PURPOSE OF THE MEASURE

The primary purpose of H.R. 278, as ordered reported, is to amend the Alaska Native Claims Settlement Act of 1971, so as to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to that Act.

BACKGROUND AND NEED

In 1971, Congress enacted the Alaska Native Claims Settlement Act (ANCSA). The Act extinguished all claims of the Alaska Native people to the ownership of land and hunting and fishing rights based upon aboriginal use and occupancy, including the Prudhoe Bay oil field, the Trans-Alaska Pipeline corridor, and much of the land which had previously been selected by the State of Alaska pursuant to the Alaska Statehood Act.

In exchange for the extinguishment of Native claims to these valuable lands, ANCSA authorized Alaska Natives to select and be conveyed 44 million acres of other public land in Alaska and to be paid $962.5 million in settlement of their claims.

Alaska was divided into 12 geographic regions and Natives living in each region were authorized to organize a for-profit business corporation under the laws of the State of Alaska. Natives living in Native villages, and several urban towns, in each region were authorized to organize either a for-profit or a nonprofit corporation. Every village organized a for-profit corporation.

The Act required the Secretary of the Interior to prepare a roll of Alaska Natives who were alive on December 18, 1971, the date NACSA was enacted into law; 80,239 Alaska Natives were placed on the roll. Each Native on the roll was then issued 100 shares of stock in the Regional Corporation representing the region and, if he or she so elected, 100 shares of stock in the village or Urban Corporation representing the village in which he or she resided.

For 20 years after the date of enactment of the Act, shares of stock in all Native Corporations cannot be sold, pledged, subjected to a lien or judgment execution, assigned or otherwise alienated. On December 18, 1991, the Act requires each Corporation to recall its old stock and issue new, unrestricted stock which can be freely transferred or sold.

The cash portion of the settlement, $962.5 million, was distributed to the Regional Corporations over a period of 12 years. Each Regional Corporation was required to distribute a portion of the cash settlement to individual shareholders and Village Corporations. Even more importantly, each Regional and Village Corporation was authorized to select and be conveyed a portion of the 44-million-acre land settlement.

Congress directed that the settlement be accomplished rapidly, in a manner consistent with the real economic and social needs of Alaska Natives. In the years between 1971 and 1987, these goals have been only partially achieved. Although the entire $962.5 million cash settlement was distributed by 1982, approximately 9 million acres of the 44-million-acre land settlement have yet to be conveyed by the Bureau of Land Management.

This delay in conveying these lands is primarily the result of two factors: The complex, cumbersome and time-consuming administrative procedure involved in conveying land to Native Corporations, and the inordinate and prohibitively expensive amount of litigation engendered by the settlement. Since 1971, through no fault of their own, Native Corporations have been forced to pay tens of millions of dollars in attorney's fees and expenses to protect the land portion of the settlement or to have the courts interpret the text of important, but ambiguous, sections of the Act.

In addition to these difficulties, by 1984 it had become apparent that four significant problems had developed with the implementation of the ANCSA settlement. First, it was recognized that by December 18, 1991, many Native shareholders will not have acquired sufficient experience dealing with corporate activities and the ways of a culture with which they were not familiar in 1971, for the shares of stock which represent their personal stake in the claims settlement to be sold on the open market without risking the loss of continued Native corporate ownership. The vast majority of the Alaska Native people believe that if shares of stock in Native Corporations can be sold after December 18, 1991, as the Act presently mandates, Alaska Natives will soon lose control of their Corporations, and, most importantly, of the legal title to the land owned by the Corporations.

Another concern is that many of the Regional, Village and Urban Corporations and Native Groups do not have sufficient cash and natural resources to become and remain economically viable and that, consequently, title to lands owned by Native Corporations which remain in Native control will be lost involuntarily. Section 21(d) of ANCSA currently exempts Native Corporation land which has not been developed or leased from State and local property taxation for 20 years after the date of conveyance. Section 21(d) implicitly assumes that 20 years after the date of conveyance all undeveloped Native Corporation land, including tens of millions of acres of land which is only valuable as wildlife habitat needed to support the continuation of the Native subsistence economy, will be sufficiently integrated into the non-Native economy to generate sufficient revenue to pay a property tax, or, if it is not, that the Native Corporation which owns the land will be able to pay the tax with money earned from other sources. In addition, nothing in section 21(d) presently protects Native Corporation land from involuntarily passing out of Native ownership to pay creditors, in bankruptcy proceedings, or through adverse possession.

The third concern is that Alaska Natives born after ANCSA was enacted are not full partners in the Native settlement with Natives who were. Currently, young Natives born after December 18, 1971, must inherit their shares of stock to participate in the settlement. This result has had a divisive effect on Native family and village life, some members of a family and some residents of a village being shareholders while others are not. Testimony submitted to the Committee projects that in 1991 the number of Alaska Natives born after the enactment of ANCSA will equal one-half the number of Alaska Natives currently included in the settlement.

Finally, concern was expressed that the for-profit corporation may not always be the only appropriate form of legal entity to implement the settlement in all regions and all villages. Some corporations have done a remarkable job of using their portions of the land and money settlement to advance the well-being of Native people in their respective geographic regions. Other corporations, particularly small village corporations, have experienced considerably more difficulty.

These difficulties have arisen due to several factors. First, Village Corporations were drastically undercapitalized. Although $962.5 million is a significant sum of money, when paid out over a number of years and divided among 13 Regional Corporations, over 200 Village Corporations, and over 80,000 individual Natives, the average Village Corporation received very little money. In addition to undercapitalization, at the time ANCSA was enacted, many individuals who later served as officers, employees, or members of boards of directors had little experience dealing with the corporate form of organization or the business world. The lack of a private cash economy in much of rural Alaska compounded the problem. Most Native villages are sited at locations which enable village residents to participate in the subsistence hunting, fishing and gathering economy, not the cash economy.

In addition to the problems already discussed, a number of Native witnesses who appeared before the Committee testified that they and many other Alaska Natives, particularly those who live in isolated rural villages who participate in the subsistence hunting, fishing and gathering economy, feel that the social and human values embodied in the corporate form of organization frequently conflict with traditional Native values and Alaska's traditional Native cultures.

H.R. 278, as ordered reported, seeks to address these and other concerns regarding the implementation of the Alaska Native Claims Settlement Act.

LEGISLATIVE HISTORY

H.R. 278 passed the House of Representatives on March 31. A hearing on both proposals was conducted before the Public Lands, National Parks and Forests Subcommittee on May 19. A Senate companion bill, S. 1145, was introduced by Senators Murkowski and Stevens on May 6. As passed by the House, H.R. 278 is identical to a measure which passed the House in the last Congress, H.R. 4162. Hearings were held on H.R. 4162 and the Energy and Natural Resources Committee was subsequently discharged from further consideration. No further action was taken by the Senate.

At a business meeting on September 23, 1987, the Senate Committee on Energy and Natural Resources ordered H.R. 278, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 23, 1987, by a vote of a quorum present, recommends that the Senate pass H.R. 278 if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 1 nays as follows:

YEAS	NAYS
Mr. Johnston	Mr. Bingaman
Mr. Bumpers*	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Bradley	
Mr. Wirth	
Mr. Fowler*	
Mr. Conrad*	
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles*	
Mr. Hecht	
Mr. Evans	

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

During its consideration of H.R. 278, the Committee adopted an amendment in the nature of a substitute. The substitute makes numerous technical conforming, and other changes to H.R. 278 as passed the House. The text of the proposed bill is discussed in detail in the Section-by-Section Analysis.

The substitute amendment differs from the House-passed version in three significant respects.

First, section 37(c) of the amendment establishes a recapitalization procedure which enables corporations that wish to use the procedure to provide their shareholders and opportunity to vote on a single, comprehensive plan to restructure their equity interest in the corporation in whatever manner they determine is appropriate.

Second, the amendment eliminates section 7 of the House-passed bill. Section 7 would amend the Alaska Native Claims Settlement Act to allow the shareholder of a Native Corporation to vote to convey any, or all, of the corporation's assets, including, but not limited to land and interests therein, to a qualified transferee entity. This provision was eliminated in the Committee reported bill. Having eliminated section 7, the Committee also modified the disclaimer in section 8 of the House version of H.R. 278 and contained in section 17 of the Committee amendment to ensure that the language of the disclaimer is viewed by all interested parties as truly neutral on the question of Native sovereignty in Alaska.

Third, the Committee reported bill includes a new section not included in the House-passed bill authorizing the conveyance of certain assets to a State-Chartered Settlement Trust.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section is self explanatory.

SECTION 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Although this section is largely self-explanatory, the Committee is aware that there is a controversy in Alaska over the issue of Native sovereignty; i.e., whether there are tribal entities in Alaska, other than the Metlakatla Indian Community on the Annette Island Reserve, that can exercise governmental authority over lands or individuals in Alaska. The controversy involves several complex questions—which Native groups might qualify as tribal organizations, what powers such organizations might possess, and whether there is Indian country in Alaska over which such organizations might exercise governmental jurisdiction.

The finding set forth in section 2(8)(C) of the Committee reported bill states and reiterates, that neither the amendments nor any action taken pursuant to the 1991 amendments affect the sovereignty controversy one way or the other. It is the Committee's clear intent that this bill leave parties in the sovereignty issue, in exactly the same status as if the amendments were not enacted.

This is an issue which should be left to the courts in interpreting applicable law and that these amendments should play no substantive or procedural role in such court decisions.

The statement of findings is intended to apply to this Act only. This section does not amend section 2 of Public Law 92-203, the congressional findings and declaration of policy section of the Alaska Native Claims Settlement Act of 1971. It also makes clear that this Act is Indian legislation.

SECTION 3. NEW DEFINITIONS

A series of technical corrections to the definitional section of ANCSA are made. Seven new definitions are added.

The "Groups Corporation" and "Urban Corporation" definitions are needed to clarify confusion that has arisen under ANCSA and other Federal statutes. These changes provide explicit definitions for these terms to eliminate this confusion.

The "Settlement Common Stock" and "Replacement Common Stock" definitions distinguish the restricted and unrestricted stock that ANCSA originally envisioned would be issued by Native Corporations from the other forms of stock that the amendments authorize the corporations to issue. The terms stockholder and shareholder are used interchangeably in ANCSA, as amended by this Act, without any difference in meaning whatsoever.

The "descendant of a Native" definition allows each Native Corporation's shareholders to decide whether to allow individuals who do not meet the requirements of ANSCA definition of Native but are nonetheless considered to be Natives by the shareholders to participate directly in the settlement. The definition also plays an important role in determining whether Settlement Common Stock and other forms of Native Corporation stock carries voting rights. Non-Native lineal descendants or adoptees of a Non-Native individual who qualifies as a descendant of a Native because he or she was adopted by a Native are not to be considered descendants of a Native.

"Alienability Restrictions" references the restrictions on Settlement Common Stock imposed by section 7(h)(1)(B) of ANCSA.

"State-Chartered Settlement Trust" is defined as a trust established by a Native Corporation under existing State of Alaska trust law.

SECTION 4. ISSUANCE OF STOCK

Section 4 amends section 7(g) of ANCSA to authorize the issuance by all Regional Corporations of shares of stock other than the outstanding shares of Settlement Common Stock. In general, this section permits, subject to an amendement to the articles of incorporation by the shareholders of a Native Corporation, the addition of new participants to the ANCSA settlement. It also permits a Native Corporation to raise equity capital in the traditional capital markets while, if it so chooses, maintaining the balance of its voting power with its Native shareholders.

Paragraph (1)(A) is a restatement of the existing subsection (g) of section 7 of ANCSA that required that issuance of 100 shares of stock to Natives enrolled in the region by the appropriate Regional Corporation. It is amended by denominating the original ANCSA stock as "Settlement Common Stock" to conform with the definition added by section 3 of the amendment. The amendment merely renames the original stock; it does not require the issuance of new stock as Settlement Common Stock.

Subparagraph (B) provides the mechanism for Native Corporations whose shareholders so desire to expand their historic memberships to include who were erroneously excluded from enrollment to any Native Corporation at the time of the original issuance of Settlement Common Stock or those Natives born after December 18, 1971. The provision also permits the issuance of additional shares of Settlement Common Stock to Native elders, in order to satisfy the desire of some Native Corporations to provide additional dividend income to that group of shareholders. No more than 100 shares of stock may be issued to any one person pursuant to this subparagraph. Stock could be issued to the intended Native recipients at their age of majority, or at some other time of the corporation's choosing.

In authorizing the issuance of Settlement Common Stock under this subparagraph, the shareholders may provide that holders of the new stock shall have only a life interest in such stock, which would be cancelled upon the death of the Native holder. This would permit expansion in the participation in the decisions and economic activity of the Native Corporation. This provision allows the Native Corporations the option of permitting new Native shareholders to participate in the Native Corporation on a fully equal basis as the original shareholders or to institutionalize historic interests of original holders of Settlement Common Stock. Any Replacement Common Stock issued under the new section 7(h)(3) or alienable common stock issued to a dissenting shareholder pursuant to section 37(d) to holders of life estate Settlement Common Stock could be life estate stock as well.

Additional shares of Settlement Common Stock issued pursuant to this subparagraph could be sold to the new Native shareholders or issued for no consideration, as the existing shareholders deem appropriate. In adopting an amendment to issue new shares of Settlement Common Stock, the class of non-village shareholders may be permitted to determine whether certain of such new shares shall carry the right to share in distributions under sections 7(j) and 7(m).

Clause (iv) precludes individuals who receive stock pursuant to subparagraph (B) from receiving "at-large" shareholder distributions provided for in subsections 7(j) and 7(m) of ANCSA unless the existing "at-large" shareholders vote as a class to permit such distributions. If agreed to, the distributions to the new shareholders would be paid from the pool of funds to be distributed to existing "at-large" shareholders. Therefore the existing "at-large" shareholders much agree to this action, which would dilute their distributions. As a corollary, the Regional Corporation "at-large" shareholders are not entitled to redistribute and therefore dilute the section 7(j) interests of the Village Corporation. Should the "at-large" shareholders determine that their section 7(j) and 7(m) interests should be diluted by sharing their interest with new "at-large" Natives under section 7(g)(1)(B) and not with new Natives whose parents may be enrolled to a Village Corporation, such Village Corporation shareholders would be separately entitled to make a determination of whether or not they will issue Settlement Common Stock to new Natives and whether or not they wish to dilute the Village Corporation's interest in its section 7(j) and 7(m) rights in respect to the newly issued section 7(g)(1)(B) Settlement Common Stock, if any.

Subparagraph (C) provides Native Corporations, if desired by their shareholders, with an additional means to maintain voting control with the holders of Settlement Common Stock, even if those holders decide to authorize the issuance of other classes of stock under paragraph 2 of subsection. (g). This provision accomplishes that goal by providing that the corporation may issue additional shares of Settlement Common Stock, to the extent authorized by shareholders in an amendment to the articles of incorporation, as a dividend or other distribution on its outstanding shares of Settlement Common Stock. Such additional shares may be issued without regard to whether or not the corporation has a sufficient amount of surplus to issue dividends under Alaska State law and may contain greater voting power on a per share basis than the original shares of Settlement Common Stock.

Paragraph (2) of this section provides the authority for Native Corporations, pursuant to an amendment to their articles of incorporation, to issue classes and series of common and preferred stock in addition to Settlement Common Stock. This provision allows the corporation to modify its capital structure in a creative way to raise new capital and, by virtue of the particular voting rights given those shareholders, to determine what role those new shareholders will play in the future of the corporation. Subparagraph (A) provides that the amendment authorizing the issuance of stock under this paragraph may remove any preemtive rights to purchase such stock that may otherwise attach under State law. Such amendment may also eliminate the possibility that the corporation could convey assets to a State-Chartered Settlement Trust or issue stock for less than adequate consideration pursuant to this subsection.

Subparagraph (B) provides that stock issued pursuant to paragraph (2) may be divided into such classes and contain such relative voting, dividend, liquidation and other rights as the shareholders may approve. This provision enables a Native Corporation to tap the resources of the equity securities market without losing control of the corporation's future.

In addition, in recognition of the unique environment in which the Native Corporations operate, the subparagraph authorizes such stock, if so provided by the authorizing amendment to the articles of incorporation, to carry certain transfer restrictions or to be cancelled upon the death of the original holder, to be restricted in its issuance to Natives aged 65 or older similarly identifiable groups of Natives, or to State-Chartered Settlement Trusts established for the benefit of Natives or descendants of Natives, including identifiable groups thereof. This provision will allow a Regional Corporation to confer special benefits on Native elders who may otherwise receive little economic benefit from their ownership of Settlement Common Stock and to assist other groups of Native shareholders with special needs.

Subparagraph (C) provides that stock issued pursuant to paragraph (2) may be issued as a dividend or other distribution on the outstanding shares of stock of a Regional Corporation or for lawful consideration. Stock issued to Native elders or to entities established for the benefit of Natives, their descendants or groups thereof, or to State-Chartered Settlement Trusts may be issued without the payment of consideration.

Subparagraph (D) safeguards the interest of the holders of Settlement Common Stock by providing that, so long as the alienation of such stock is restricted, the issuing Corporation may not issue additional shares of stock pursuant to paragraph (2) to a group composed solely or principally of employees, officers and directors of the corporation. In addition, if such stock issuance would, immediately following the issuance, cause the voting power held by the holders of Settlement Common Stock to represent less than a majority of the votes needed to elect directors, the corporation may not issue additional shares more than 13 months after the shareholder vote authorizing the issuance of such stock.

Paragraph (3) requires the disclosure of certain facts to the shareholders before they vote on authorizing the issuance of new stock. This disclosure would supplement, not supersede, any disclosure required under applicable State or Federal laws regulating the preparation of proxy statements and the solicitation of proxies.

Subparagraph (A) of paragraph (3) requires that the amendment to be voted upon by the shareholders specify the maximum number of shares to be authorized by the amendment and the maximum number of votes that will be represented by such shares.

To ensure that shareholders are presented with adequate disclosure of the impact on the corporation of the issuance of additional stock under paragraph (2), subparagraph (B) requires an express disclosure to shareholders in the event that the issuance of such stock would cause the shares of outstanding Settlement Common Stock to represent less than a majority of the voting power of the corporation for purposes of the election of directors.

Paragraph (4) provides that the respective rights provided to Native Corporations and individual shareholders by subsections (i), (j) and (m) of section 7 of ANCSA are not affected in any manner by the issuance of new stock pursuant to subsection (g) (except if shareholders entitled to payments under subsections (j) and (m) agree to a diminution of such right pursuant to subsection (g)(1)(B)(iv)), and that the obligations of Native Corporations not be enlarged by any such issue. The paragraph also makes clear that nothing in the Act is intended to limit the scope of permissible corporate activity under State law.

Accordingly, subparagraph (A) provides that, other than as provided in subsection (g)(1)(B)(iv), only those original shares of Settlement Common Stock issued to non-village shareholders may carry rights to share in distributions under subsections (j) and (m) and that the most recent distribution ratio calculated by a Regional Corporation prior to the enactment of these amendments shall govern the distribution of revenues under subsections (j) and (m) thereafter.

Subparagraph (B) clarifies the intent that rights and obligations under subsection (i) not be in any manner disturbed by the enactment of the 1991 amendments.

Subparagraph (C) states that ANCSA and these amendments expand the scope of lawful corporate action by Native Corporations without in any manner diminishing the scope of corporate activity otherwise authorized by applicable State law and that certain existing authority might present an alternative method of obtaining some of the aims facilitated by these amendments.

SECTION 5. SETTLEMENT COMMON STOCK

Section 5 amends section 7(h) of ANCSA. Paragraph (1) of section 7(h) restates the rights and restrictions of the existing common stock of Native Corporations, not denominated Settlement Common

Stock. The amendment clarifies the immunities of such stock by adding an explicit protection during a bankruptcy proceeding and provides a means of permissive conveyance that did not exist prior to the amendment: inter vivos transfer, as a gift, by a holder to a child, grandchild, great-grandchild, niece or nephew of the holder, which may be made without tax liability.

The inheritance provision (section 7(h)(2)) provides that if the holder does not dispose of his or her stock by will and there are no heirs, the stock shall escheat to the issuing Regional Corporation and be cancelled.

This paragraph also provides that where stock passes by intestate succession and the heir is neither a Native nor a descendant of a Native, the Regional Corporation shall have the right to repurchase the stock. This power only exists if the corporation is the issuing corporation and has suitably amended its articles of incorporation. In order to exercise such right, the corporation must provide the intended recipient with notice and an opportunity to make a transfer to a qualified Native holder. In any event, if the Settlement Common Stock is transferred by will or intestate succession to a person who is neither a Native nor a descendant of a Native, that stock will not carry voting rights until a subsequent transfer to a Native or descendant of a Native. The status quo is maintained where stock was transferred, by any means, prior to the enactment date of this Act. Such stock does not carry voting rights if transferred to a non-Native and voting rights are automatically restored on a subsequent transfer to a Native or descendant of a Native.

Paragraph (3) provides for Replacement Common Stock, the stock that is to be issued to each shareholder in place of Settlement Common Stock should alienability restrictions be terminated. Where the Replacement Common Stock is issued in exchange for Settlement Common Stock that is held as a life estate, it will also be life estate stock and shall bear an appropriate legend.

Paragraph (3)(B)(ii) protects the right of non-village shareholders to distributions under sections 7 (j) and (m) in the event that the alienability restrictions on their Settlement Common Stock are removed. In such event, the board of directors must provide each shareholder entitled to such distributions either with Replacement Common Stock that carries the right to share in distributions under section 7 (j) and (m) or with stock having no such special distribution right together with a separate security that carries only the distribution right. The articles of incorporation of the corporation are deemed amended to authorize the issuance of Replacement Common Stock and the separate security by paragraph (3)(C).

Paragraph (3)(D) deals with the restriction, terms, limitations or other provisions that can be placed on the Replacement Common Stock by an amendment to the articles of incorporation.

Paragraph (3)(E) protects Replacement Common Stock from all claims of creditors arising prior to the issuance of such stock.

SECTION 6. VILLAGE, URBAN, AND GROUP CORPORATIONS

This section amends section 8(c) of ANCSA, which applied to Village Corporations the provisions of ANCSA establishing requirements for the organization of Regional Corporations. As amended, this section now also applies these provisions to Urban Corporations and Group Corporations and makes applicable subsections (g), (h) and (o) of section 7 of ANCSA to Village, Urban, and Group Corporations.

SECTION 7. PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

Section 7 is the basic procedural section of the 1991 amendments. This section establishes the procedures to be followed by Native Corporations and their shareholders in considering and voting upon the various options made available by the Act. It adds a new section, numbered section 36, to ANCSA.

In general, this new section requires disclosure sufficiently in advance of a shareholder vote on amendments provided for in the Act to provide an opportunity to evaluate fully the merits of the proposed corporate action and, when dissenters' rights may become an issue, to make the petition right a meaningful method of shareholder participation. The section also specifies a voting standard intended to apply to votes on the options made available under the Act, but permits the standard to be raised if a higher standard is the will of the shareholders, expressed in a referendum on the issue.

Subsection (a) provides that the voting procedure set forth in this section shall cover amendments to the articles of incorportion authorized by subsections (g) and (h) of section 7, subsection (d) of this section, and section 37, and resolution authorized by section 38(a)(2). The major issues subject to the procedures of this section are the termination of alienability restrictions, the issuance of new stock by Native Corporations and the extension of dissenters' rights to the minority shareholders under certain circumstances.

Subsection (b)(1) states that an amendment or resolution described in the previous paragraph may be approved by the Native Corporations' board of directors in accordance with its bylaws. If the amendment or resolution is approved it will be submitted to the shareholders for a vote at the next annual meeting or a special meeting called at the discretion of the board to consider such amendment or resolution.

Under subsection (b)(2)(A), the corporation is required to provide its shareholders with disclosure materials concerning the amendments and resolutions authorized to be voted upon by this Act between 50 and 60 days prior to the scheduled meeting. The paragraph also states that the corporation is free to communicate with its shareholders at any time and in any manner permitted by applicable State law.

Subsection (b)(2)(B) provides that the proxy statements or other shareholder communications concerning the proposed amendment or resolution, the board of directors at its discretion, may exclude information concerning the value of the corporations' land assets if such value is only speculative or if such land has been set aside for traditional or cultural use by the shareholders and others in the Native community. The fact of such exclusion must be disclosed in the communication.

Subsection (b)(2)(C) specifies when a new shareholder disclosure statement is required in the event of a postponement or adjournment of the originally-scheduled shareholders' meeting.

Subsection (c)(1)(A) establishes the procedure for shareholder petitions. For amendments authorized in sections 7(g)(1)(B) and 37(b) or one authorizing the issuance of stock subject to the restrictions provided by section 7(g)(2)(B)(iii), persons holding 25 percent of the total voting power of the corporation may collectively petition the board to submit such amendment to the shareholders for a vote.

Subsection (c)(1)(B) provides that the laws of the State of Alaska applicable to solicitations of proxies shall apply to the solicitation of petition signatures, except as otherwise specified. If the board agrees with the petition, it shall submit the amendment with the proponents' statement or its own to the shareholders. If the board disagrees with the petition, it shall submit the amendment with the proponents' statement and with its own opposing statement if it chooses to do so or with an alternative amendment for shareholder consideration.

Subsection (c)(2) directs that any Native Corporation electing the opt-in option provided by section 37(d) shall be exempt from this subsection as of the date of such election. The petition procedure is also unavailable to the shareholders of any Native Corporation that has elected to propose a recapitalization plan to its shareholders under section 37(c) until December 18, 1991. In general, the laws of the State shall govern any shareholder right of petition for such corporations.

Subsection (d) specifies that as a general rule, any of the amendments and resolutions set forth in subsection (a) may be approved only upon the minimum vote of a majority of the total voting power of all outstanding shares of stock eligible to vote on any such issue. By an amendment to the articles, the shareholders may increase such standard up to a requirement that two-thirds of the total voting power of the outstanding shares of stock eligible to vote on any such issue. By an amendment to the articles, the shareholders may increase such standard up to a requirement that two-thirds of the total voting power of the outstanding shares must vote affirmatively for any such amendment or resolution to take effect. The articles of incorporation and bylaws of the Native Corportions (as well as State law) are preempted by this section. Accordingly, no corporate action is required to bring the articles and bylaws into accord with the procedures and standards set forth in section 7 of the Act.

Paragraph (2) of subsection (d) makes clear that any amendment or resolution specified in subsection (a) (other than an amendment pursuant to section 37) may be subject to a class vote, requiring approval of a majority or a greater specified vote of the outstanding voting power of each class of stock eligible to vote, if provided for in the amendment authorizing the issuance of such stock. This requirement would be in addition to that found in paragraph (1).

Subsection (e) defines voting power for purposes of this section as the total number of votes represented by stock eligible to vote on the matter at issue.

SECTION 8. DURATION OF ALIENABILITY RESTRICTIONS

Section 8 adds to ANCSA a new section 37 providing three distinct options for Native Corporations to deal with whether or not alienability restrictions should continue beyond December 18, 1991, the automatic termination date for such restrictions under current law. This section amends ANCSA to extend alienability restrictions on the Settlement Common Stock of a Native Corporation unless and until the shareholders of the corporation decide to terminate them.

Subsection (a) provides the general rule that alienability restrictions shall continue until terminated in accordance with one of the options provided by this section. If a Native Corporation takes no action, the protections of stock alienation restrictions shall continue indefinitely.

Subsection (b) sets forth the opt-out procedure, which permits a Native Corporation to terminate the alienability restrictions by adopting an amendment to its articles of incorporation. The amendment can set a date certain or describe a specific event that will trigger the termination. Such amendment may be voted on not more than once prior to December 18, 1991, and not more than once annually thereafter.

Subsection (c) provides Native Corporations with the option to maintain alienability restrictions on Settlement Common Stock as an element of a recapitalization plan that might result in the issuance of a class of alienable voting common stock. By adopting such a plan, which would include the issuance of stock in accordance with the authority provided by section 7(g), as amended by the Act, a corporation would be able to maintain voting control, for a period of time or indefinitely, in its existing, primarily Native, shareholders, while giving such shareholders liquid stock.

Subsection (c)(1)(A) provides that such a recapitalization plan may be adopted by shareholder vote at any time on or before December 18, 1991.

Subsection (c)(1)(B) provides that the amendments constituting the plan to be voted upon by the shareholders may extend the alienability restrictions indefinitely, until a date certain not more than 50 years after the vote or until an event specified in the amendment has occurred (subject to a later vote to remove such restrictions).

Subsection (c)(1)(C) provides for the future extension of alienability restrictions pursuant to an amendment to the articles of incorporation adopted by the shareholders prior to the expiration of the specified period of restrictions estabilished in a previous amendment adopted pursuant to subsection (c)(10)(A) or this subsection. There shall be not limit on the number of such extension amendments.

In order to assure consistency of results and the efficacy of a recapitalization plan supported by the board of directors, subsection (c)(10)(D) permits a board to present all amendments and resolutions effecting such plan as a whole to be approved or rejected in its entirety by a single vote of the shareholders.

The amendments and resolutions subject to such vote may provide for the issuance of stock pursuant to section 7(g) and, in the case of Cook Inlet Region, Inc., may authorize a stock option incentive plan for officers and employees pursuant to which stock authorized under section 7(g)(2) (i.e. not Settlement Common Stock) may be issued to such persons notwithstanding any other provision of law, including section 7(g)(2)(D)(i).

Subsection (c)(2)(A) is the operative provision terminating the alienability restrictions at the end of the time period specified in the amendment unless further extended by shareholder action.

Subsection (c)(2)(B) provides that a corporation whose shareholders adopt an amendment extending restrictions pursuant to paragraph (1) may later vote to terminate the restrictions on a date certain or upon the occurrence of a specified event or condition. The rejection of such an amendment to terminate restrictions shall not preclude subsequent votes on the issue.

Pursuant to subsection (c)(3), any corporation that, as a result of a recapitalization plan adopted under this section, issues shares of voting alienable common stock to each holder of Settlement Common Stock issued under section 7(g)(1)(A) that carry dividend and liquidation rights at least equal to those carried upon completion of the recapitalization by such shares of Settlement Common Stock, shall not be obligated to make any additional payments or stock distributions under section 38. In the case of a recapitalization complying with this subsection, dissenting shareholders, like other holders of Settlement Common Stock, will receive a distribution of marketable voting stock and will therefore have no right to any additional compensation under section 38.

Subsection (d) establishes an opt-in procedure for all Regional Corporation, and Village, Urban and Group Corporations in the Aleut and Bristol Bay Regions. This option is available to any such corporation whose board elects the availability of this option within 1 year after the date of enactment of this Act. If the opt-in procedure provided by subsection (d) is elected, the shareholders of the corporation must vote to extend alienability restrictions beyond December 18, 1991, or such restrictions will expire on that date. Once this subsection is elected, a shareholder vote on extending alienability restrictions on the Settlement Common Stock must be taken at least once before January 1, 1991. If a corporation electing to follow the opt-in procedure approves extensions, that action will preserve continued Native control over the Native Corporation and its lands, an objective which this legislation is designed to foster.

In order to extend restrictions on stock alienation, the shareholders of corporations covered by this subsection must affirmatively so vote before restrictions expire, with the standard of passage for an amendment to the articles of incorporation to that effect being governed by section 36(d) of ANCSA. Under subsection (d)(2)(B), if an amendment extending restrictions is not initially approved, the board of directors may resubmit the issue to the shareholders on repeated occasions up to December 18, 1991. The extension may be for an indefinite period or for a term of not more than 50 years and, in the latter event, the stock restrictions may be further extended if action is taken before the expiration of the extension period then in force.

Under subsection (d)(3), the restrictions on alienation of Settlement Common Stock automatically will terminate at the end of any extension for a term of years if the shareholders do not further extend the term. Under subsection (d)(4), the shareholders of a corporation may voluntarily terminate restrictions on stock alienation that have been extended indefinitely, but may not curtail extensions for a term of years.

Subsection (d)(5) provides for the identification and compensation of dissenters, those shareholders who vote against the extension of stock restrictions and who, having lost that vote, decide not to continue to hold restricted stock. They must so notify the corporation of their decision within 90 days after the vote. Thereafter, the board of directors is given an additional 30 days to choose whether the dissenters will be issued alienable common stock in exchange for their Settlement Common Stock or be paid for that stock in accordance with section 38. Subsection (d)(5)(C) provides that dissenters' rights shall be honored only with respect to the first extension of stock restrictions and that "no dissenters' rights of any sort shall be permitted in connection with subsequent extensions of such restrictions."

Subsection (d)(6) governs the issuance of alienable common stock to dissenters if a Native Corporation elects to follow that course. In general, alienable common stock will carry that same right as Settlement Common Stock exchanged therefore, except that the rights to share in distributions under sections 7(j) and 7(m) may be split off in a separate non-voting security and that the alienable common stock may be issued subject to a right of first purchase in favor of the corporation or the Native members of the shareholder's immediate family. In many respects alienable common stock may be subject to the same terms and conditions available for Replacement Common Stock. For example, no share of alienable common stock shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native. This provision prevents non-Natives from accumulating a block of alienable common stock and thereby taking over control of the Corporation.

To implement the protections against non-Native takeovers, subsection (d)(7) contains detailed reporting and certification procedures which must be followed by the purchasers or other transferees of the alienable common stock originally issued to dissenters.

SECTION 9. DISSENTERS RIGHTS

Section 9 adds to ANCSA a new section 38 providing rights not otherwise available in every case under State law to those dissenting minority shareholders who vote against two types of actions taken by a majority of the shareholders of a Native Corporation: (1) rejection of an amendment authorized by section 37(b) to terminate alienability restrictions; and (2) adoption of an amendment authorized by section 37(d) to extend restrictions on the alienation of Settlement Common Stock without providing for the issuance to the discounters of alienable common stock.

Where stock restrictions are extended pursuant to the "option" procedure, the grant of dissenters' rights is mandatory. In the other case, the rights created under section 38 need be granted only if provided by the shareholders of the Native Corporation through a contemporaneous resolution. Section 38(b) provides that the notice and other procedures established by State law governing the right of a dissenting shareholder to demand and receive payment for his or her shares whenever this right is honored above shall apply unless longer periods of time to take action are permitted by the corporation.

The overriding purposes of subsection (c) and (d), dealing with stock valuation and payment, are to ensure that a dissenter will not be able to obtain a cash payment for his stock which is greater than the value of that stock, as restricted, in the hands of the remaining shareholders and to protect the continued viability of the Native Corporations.

Subsection (c)(1) specifies that the board of directors of a corporation, prior to the shareholder vote, may approve a resolution providing that the Settlement Common Stock of dissenters "shall be valued as restricted stock," or, in other words as stock having the same restrictions for the same period of time as the majority shareholders approved in the vote to which the dissenter objects. In this fashion, a dissenter will receive no larger payment for his stock than the value of the restricted stock which continues to be held by the majority shareholders.

Secondly, this subsection specifies that the board of directors also may provide by resolution that the value of land or any interest therein received by the corporation under ANCSA, which "is committed by the corporation to traditional or cultural uses, or . . . is of speculative value" shall be excluded from the valuation of dissenters' stock.

The payment provisions for dissenters' stock in subsection (d) also reflect the primary objective that dissenters should not be given a financial advantage over shareholders who stay with the Native Corporations. Accordingly, instead of cash, a corporation may pay for dissenters' stock with negotiable notes the principal of which will be payable in no more than 5 years. Such notes will bear interest and must be fully secured in order to protect the dissenters from losses arising out of corporate operations. Paragraph (1)(C) permits the security for the notes to consist of a lien on real property of the corporation whose fair market value is equal to 125 percent or more of the aggregate face amount of the notes. Timber lands and subsurface resource whose development gives or would give rise to distribution obligations under section 7(i) may be included in the package of security, but only to the extent of a percentage interest that does not exceed the amount of the corporation's distributable share of payments under section 7(i) and the agreement among the Regional Corporations concerning section 7(i) distributions.

SECTION 10. STATE-CHARTERED SETTLEMENT TRUST OPTION

To accommodate the desire of certain Native Corporations to transfer a portion of their assets out of the corporate form, this section authorizes the conveyance of assests, other than title to or any other interest in subsurface estate in land, to a State-Chartered Settlement Trust. This trust is to be established under the existing laws of the State of Alaska with the additional characteristics set forth in this section. The Trusts are to be registered under the existing trust registration requirements found in the Alaska Statutes at 13.36.005 or its successor statute. Registration will establish the exclusive jurisdiction of the State of Alaska over the trusts. The transfer of assets to such a trust would require an affirmative shareholder vote only if otherwise required under State law.

The general purpose of the State-Chartered Settlement Trust is to preserve Native heritage and culture and to promote the health, education and economic welfare of its beneficiaries, the shareholders of the transferor Native Corporation and their lawful successors. It is anticipated that this section may be used by corporations to protect and manage, in perpetuity, Native cemeteries and other important cultural or subsistence sites. The trust is intended as a land protection option: It can be used to permanently insulate land, as well as other assets transferred to it, from the business risks undertaken by the corporation, subject to the creditor and fraudulent conveyance protections in subsection (b).

Such trusts may not operate as a business nor may they make a subsequent transfer of land or interests therein except for a reconveyance to the transferor corporation, if such reconveyance is authorized in the trust instrument.

Regional Corporations are given an oversight role in the information of these trusts by Village, Urban and Group Corporations in order to monitor the use of this provision in the region and minimize abuse. Regional Corporations may approve, disapprove, or refuse to act on the trust instrument. Regardless of the action taken by the Regional Corporation in this regard, it will not be subject to any liability for such decision. If the Regional Corporation chooses not to approve trust instruments, then other corporations within its region will not be able to avail themselves of the trust authority contained in this section.

Subsection (b) makes it clear that section 14 and all other relevant provisions of ANCSA shall apply to land transferred to a State-Chartered Settlement Trust and that, existing arrangements under section 7(i) of ANCSA shall not be disturbed by any transfer under this provision. This subsection also provides that the conveyance of assets to the State-Chartered Trust shall not affect the applicability or enforcement of a valid contract or other obligation to which such assets were expressly or potentially subject immediately prior to such conveyance.

SECTION 11. ALASKA LAND BANK

Under section 907 of the Alaska National Interest Lands Conservation Act (ANILCA), 43 U.S.C. 1636, Congress provided for the establishment of an Alaska Land Bank Program. This program authorizes the Secretary of the Interior and Native Corporations to enter into agreements under which undeveloped lands owned by the corporations are placed in a "Land Bank". While in the Land Bank, Native lands cannot be developed, and also may not be alienated, transferred, assigned, mortgaged or pledged. In return, while in the Land Bank, Native-owned lands possess immunity from:

(1) adverse possession;

(2) real property taxes; and

(3) judgment in any action at law or equity to recover sums owned or penalties incurred by the Native Corporation.

In the several years since ANILCA was enacted, only two agreements have been executed. Administration of the program has been cumbersome and costly for both the Department of the Interior and the Native Corporations. The underlying concept of protecting Native land ownership, however, is sound and consistent with the purposes of this legislation.

This section amends section 907 of ANILCA to automatically extend the land protection immunities of the Alaska Land Bank Program to land, and all interests therein, owned by Alaska Natives, Native corporations, and State-Chartered Settlement Trusts. Section 907(d)(1) of ANILCA, as amended by this Act, provides that all Native land conveyed pursuant to ANCSA, "so long as such land and interests are not developed (or leased or sold to third parties)," shall automatically and indefinitely be entitled to the abovementioned Land Bank protections. The section further provides that such undeveloped lands shall also be immune from judgment resulting from any claim based upon or arising under the Bankruptcy Code and other laws relating to insolvency, and from involuntary distributions or conveyances related to the involuntary dissolution of Native Corporation as, for example, might occur if State filing requirements were not met.

The section establishes terms and conditions pursuant to which the immunities will not apply to particular tracts of land at particular times. The immunities do not apply to a tract of land, or to interests therein, during the periods of time the tract is leased to third parties (unless the lease is for the purpose of exploration, or exploration and development, of subsurface nonrenewable resources, in which case the immunities shall continue to apply until such time as, with respect to a particular tract subject to the lease, the tract has been otherwise "developed"). To ensure consistent application, new section 907(d)(2) of ANILCA sets forth definitions of the terms "developed," "exploration" and "leased," which in substance conform to existing State law.

The immunities do not apply to a tract of land during periods of time the tract is expressly pledged as security for any loan or is expressly committed to any commercial transaction in a valid agreement. Nor do the immunities apply to lands owned by a Native Corporation when less than a majority of either the total equity, or the total voting power for the purpose of electing directors, of the corporation is held by Natives and descendants of Natives. A tract of land is also not developed if the land owner charges or receives fees allowing hunting or fishing or related guide services on such lands.

Although land protected by this section may not be taken or sold to satisfy judgments obtained in actions at law or in equity, this protection does not apply to judgments (or arbitration awards) arising out of any claim made pursuant to section 7(i) or 14(c) of the Alaska Native Claims Settlement Act.

Lastly, the immunities do not apply to a tract of land during the period of time during which the tract is "developed" as that term is defined in the section.

Subsection 907(d)(3) of ANILCA, as amended by the amendment, provides that, except as provided in section 14(c)(3) of ANCSA, no trustee, receiver or custodian vested under applicable law with a right, title or interest of a Native Corporation or individual may assign or lease undeveloped ANCSA lands to a third party, or commence development or use of the land for other than exploration purposes, or convey title to the land, except pursuant to an arbitration award or judgment regarding revenues under section 7(i) of ANCSA. In order to avoid interference with normal business relations, the limitations upon trustees under this paragraph, as well as the exemptions under new subparagraphs (d)(1) (C)-(E), do not apply to any land, or interest in land, which has been expressly pledged as security for any loan or expressly committed, i.e. described with sufficient clarity for the agreement to be enforceable to any commercial transaction in a valid agreement.

Section 907(d)(5) of ANILCA, as amended by this Act, provides for a limited tax recapture upon final approval of a subdivision plat submitted for approval by or on behalf of the Native Corporation.

The reported Act adds a new section 907(e) to ANILCA providing that all ANCSA lands, including those covered by a Land Bank agreement, shall be subject to condemnation for public purposes under applicable State law. This provision substitutes for the comparable provision of section 907(c)(4)(B) of ANILCA, as originally enacted. Subsection 11(d) of the 1991 Amendments adds a new section 907(g) of ANILCA. This new subsection (g) provides that, except to the extent expressly otherwise so provided, nothing in section 907 is intended to affect the civil or criminal jurisdiction of the State of Alaska. This provision reiterates the current provision of section 907(c)(4)(A) of ANILCA relating to state jurisdiction.

SECTION 12. CONFORMING AMENDMENTS

Subsection (a) eliminates the requirement in section 7(o) of ANCSA that Native Corporations must submit copies of their annual audits to the Secretary of the Interior and the jurisdictional committees of the Senate and the House of Representatives.

Subsection (b)(1) amends section 21(a) of ANCSA by providing that distributions made by a Native Corporation may be treated as distributions of revenues originating from the Alaska Native Fund, regardless of whether the Native Corporation has commingled its Alaska Native Fund revenues with revenues generated from other sources, until the Native Corporations' distributions equal the amount of Alaska Native Fund revenues it has received.

Subsection (b)(2) amends section 21(c) of ANCSA to clarify that, in determining the basis of ANCSA land, first commercial development shall not be held to have occurred solely as a result of the receipt of advance payments, even though such advance payments may qualify for depletion deductions.

Subsections (b) (3) and (4) are intended to facilitate use of the shareholder homesite program already provided in ANCSA, by shifting certain costs associated with donation of the land. The provision extends the program to all Native Corporations and makes it clear that the tax burden, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation, will fall on the shareholder receiving the homesite. The recipient shareholder may be subjected to taxes and such assessments only if such shareholder subsequently subdivides the conveyed homesite for commercial purposes.

Paragraph (5) adds a new subsection (k) to section 21 to fill a void in the original law; namely, the determination of a shareholder's basis in the stock received from a Native Corporation. Because of the restrictions imposed on alienation, ANCSA and its amendments did not define the basis for shareholders in stock or other interests that might become alienable after the effective date of the original legislation.

This new subsection (k) recognizes that the settlement involved not only the assets that were originally transferred as part of the settlement, but the utility of the transitional corporate model which has led to the possibility of marketability of the stock of some Native Corporations. Some have used the opportunity provided by the settlement to add value to the assets prior to establishing a market. Such enhancement of the value of the settlement should not result in significant tax consequences to the beneficiaries.

Subsection (c) amends section 30(b) of ANCSA, which applies to mergers of Native Corporations. This provision expands the limitation of dissenters' rights contained in section 30(b) from December 18, 1991, to so long as alienability restrictions remain on the merging corporation's Settlement Common Stock.

SECTION 13. SEVERABILITY

Every section, subsection, paragraph, subparagraph, clause and subclause of this Act is severable from each other element of the legislation. No finding of invalidity of any such element shall affect the remaining portions of the Act.

SECTION 14. SECURITIES LAWS EXEMPTION

Section 14 amends section 28 of ANCSA, altering the termination date of the exemption from the Investment Company Act of 1940, the Securities Act of 1933, and the Securities Exchange Act of 1934 for Native Corporations provided by current law. Subsection (a) provides immunity from such securities laws until after the corporation offers shares of its stock in a public offering, removes the alienability restrictions on its Settlement Common Stock or voluntarily files a registration statement with the Securities Exchange Commission.

Subsection (b) makes it clear that, after the dates specified in subsection (a), the application of the 1933, 1934 and 1940 Acts will be determined with reference to such acts, except as provided in subsection (d).

Subsection (c)(1) restates current law that requires transmission of information substantially equivalent to that required to be included in an annual report to shareholders by the 1934 Act and corresponding regulations to shareholders of Native Corporations exempt from 1934 Act registration solely as a result of the subsection (a) exemption.

Subsection (c)(2) excludes holders of Settlement Common Stock from the calculation that determines the applicability of the registration requirements of the 1934 Act.

Subsection (d) extends the existing exemption from the Investment Company Act of 1940 until at least January 1, 2001.

SECTION 15. ELIGIBILITY FOR FEDERAL PROGRAMS, MINORITY STATUS

Section 15 amends section 29 of ANCSA by adding several new subsections. Currently, section 29 of ANCSA directs that any compensation, remuneration, revenue or other benefit received pursuant to ANCSA "shall be disregarded" in determining eligibility to participate in the Food Stamp Program. Natives have been denied benefits or have received diminished benefits in other Federal or federally-assisted programs because of benefits received under ANCSA. Accordingly, the new subsection (c) in this section clarifies the present protections as including all Federal or federally-assisted programs. It also specifically exempts dividends up to $2,000 per individual per year and dividends and distribution of stock from consideration in eligibility determinations. Application of less restrictive eligibility tests are not prohibited by this language.

Subsection (d) states that Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

Subsection (e) provides that a Native Corporation and its subsidiaries and other business entities shall be considered a minority owned and controlled corporation for purposes of federal law as long as the ownership of its voting power and equity meets one of the three specified tests. As provided in paragraph (e), this provision shall not supersede any less restrictive test applied by a Federal agency or instrumentality now or in the future.

Subsection (f) amends the Federal Oil and Gas Royalty Management Act of 1982 to provide that certain lands and the Regional Corporations that hold them are covered by such Act. The practical effect is to permit such corporations to receive royalties collected by the Department of the Interior from lessees of Regional Corporation land administered by the Department.

Subsection (g) is intended to facilitate Alaska Native shareholder employment programs by resolving any uncertainty as to the applicability of the Civil Rights Act of 1964 to certain business enterprises in which Native Corporations participate.

SECTION 16. JUDICIAL REVIEW

As with ANCSA itself, the provisions of this Act should be carried out expeditiously and with as little litigation as possible. To assure that result, section 16 provides a statute of limitations on judicial review of certain aspects of this legislation and procedures to expedite this review.

This section establishes the procedures which must be used to file any civil action that contains any claim for relief which challenges the constitutionality of any amendment made by or provision of this Act, or any part thereof. Such action must be filed in the United States District Court for the District of Alaska and shall be heard in that court by a panel of three judges as provided in 28

U.S.C. 2284. If any appeal is taken from the final judgment of the district court, the appeal shall be made directly to the United States Supreme Court.

The section establishes two statutes of limitation applicable to actions described in the preceding paragraph. If an action challenges the constitutionality of issuing or distributing Settlement Common Stock for less than fair market value or the extension of restrictions on the alienation of Settlement Common Stock pursuant to section 37 (c) or (d) of ANCSA, the action must be filed within 6 months of the date of shareholders of the corporation whose stock is the subject of the action vote to authorize the distribution or to continue the restrictions on the alienability of the corporation's Settlement Common Stock. With respect to an action which challenges the constitutionality of issuing or distributing Settlement Common Stock for less than fair market value, the action must also be filed prior to the date on which the Settlement Common Stock which is the subject of the action is issued or distributed. However, no corporation may issue or distribute Settlement Common Stock within 14 days of the date upon which its shareholders vote to authorize the issuance or distribution.

All civil actions other than those described in the preceding paragraph that challenge the constitutionality of an amendment made by or provisions of this Act, or any part thereof, must be filed within 2 years of the date of enactment of this Act.

If the United States District Court for the District of Alaska or the United States Supreme Court determines that an amendment or provision of this Act, or any part thereof, is unconstitutional, in fashioning appropriate relief, the court shall not enter a money judgment against the United States.

This section is modeled in part on the comparable section of ANCSA, 43 U.S.C. 1609, which was designed to assure that challenges to the legislation would be resolved promptly and with finality and certainty, in order that all affected parties would be able to use the provisions of the legislation to plan and conduct their affairs. Section 16(c) provides a similar statement of purposes for these amendments.

The restrictions on stock contained in this Act are intended to safeguard the rights of the Natives shareholders. Shareholders should be afforded every opportunity to express their desires upon the issue of lifting restrictions and such restrictions should not be lifted until the shareholders have had an opportunity to exhaust their procedural rights. The Committee believes the judicial review provision establishes a sound procedure for substantive review of any legal questions regarding these amendments. The Committee emphasizes that the judicial review section does not change any court's existing equitable powers to formulate remedies under litigation concerning these amendments. These equitable powers include, for example the use of injunctive relief to extend stock restrictions during the pendence of any litigation over a shareholder vote to extend restrictions and for a reasonable time following the entry of judgment to permit such judgment to be implemented. The Committee emphasizes its concern and hope that the court will utilize such remedies to retain the extension of restrictions for the purpose of maintaining the status quo during such a time period.

SECTION 17. DISCLAIMER

This section clarifies that the Congress intends that the Federal executive and the courts shall not construe any amendment or provision of this Act, or part thereof, any exercise of authority undertaken pursuant to any amendment or provision of this Act, or any part thereof, or any change in the status of land affected by any amendment or provision of this Act, or any part thereof, as validating, invalidating, or in any way affecting, the assertion by a federally-recognized tribe, traditional Native council, or Native council organized pursuant to the Indian Reorganization Act of 1934, as amended in 1936, that such tribe or council does or does not have governmental authority, including, but not limited to, authority to manage or regulate the taking of fish and wildlife, on lands or over persons located within the boundaries of the State of Alaska, or that Indian country does or does not exist within the boundaries of the State of Alaska.

In addition, the disclaimer section does not affect any transfer of ANCSA land to other ownership under existing State law or other means other than these amendments.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 1987.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 278, the Alaska Native Claims Settlement Act Amendments of 1987, as amended and ordered reported by the Senate Committee on Energy and Natural Resources, September 23, 1987.

H.R. 278 would amend the Alaska Native Claims Settlement Act of 1971 to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the act. We estimate that enactment of the bill would result in no significant additional costs to the federal government or to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 278. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 278, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to H.R. 278 and the Senate companion measure, S. 1145, is set forth below:

THE SECRETARY OF THE INTERIOR
WASHINGTON

August 3, 1987

SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
RECEIVED
AUG 4 1987
WASHINGTON, DC 20510

Honorable J. Bennett Johnston
Chairman, Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your request for our views on H.R. 278 and S. 1145, amending the Alaska Native Claims Settlement Act. These bills are scheduled for markup in your Committee on Wednesday, August 5, 1987.

We strongly oppose enactment of this legislation in its present form.

H.R. 278 passed the House of Representatives on March 31, 1987. It would, as a matter of Federal law, mandate the automatic and indefinite extension of restrictions on the alienation of Native Corporation stock beyond the current statutory expiration date of 1991. Although H.R. 278 provides a mechanism for elimination of the restrictions at a later date, we believe that relief is largely illusory since it requires a vote of a majority of all issued and outstanding stock. Under the circumstances, such a removal of the restrictions would be hard to achieve if corporate management were opposed to that vote.

Furthermore, H.R. 278 would create new classes of property entitled to special treatment; lead to the creation of new, permanent racial institutions and distinctions by, among other things, differentiating between stock held by Natives and non-Natives with respect to inheritance and voting rights; lead to the dilution of the value of existing stock by expanding the membership base; and allow the formation of new legal entities with special privileges and immunities, raising a serious question of sovereignty over certain lands in Alaska.

S. 1145, as introduced, is substantially the same in its effect. While it would require regional corporations to hold a vote to extend stock restrictions beyond 1991, it still does not protect adequately individual rights and interests, in that, among other things, dissenters rights are discretionary, substantially undervalued, and contrary to the corporate laws of most States by not requiring cash payment to dissenters. The bill otherwise reflects the same inequities as set forth above for H.R. 278.

We understand that an amendment in the nature of a substitute to S. 1145 will be offered at this Wednesday's markup. It would, among other things, eliminate the section permitting transfer of corporate assets to qualified transferee entities (QTEs) and delete the requirement that regional corporations vote to extend stock restrictions beyond 1991. While the elimination of the section on QTEs lessens our concerns about the bill's impact on sovereignty in Alaska, the provision mandating the extension of stock restrictions for regional corporations is a further abridgement of individual shareholder rights under the terms of the original settlement. Therefore, we regret to advise you that these changes would not be sufficient to alter our strong opposition to these proposals.

We believe all of these proposals are fundamentally unfair to current Native and non-Native shareholders whose rights and expectations have been undisturbed for fifteen years. In some cases, these amendments raise serious Constitutional and policy questions, especially in light of the recent Supreme Court ruling in Hodel v. Irving. This legislation also undoubtedly would result in substantial litigation and risk the Federal government's financial exposure because, in our view, the legislation probably cannot insulate the Federal government from payment of just compensation in the event the courts were to determine various provisions constitute a "taking." These proposals would abridge the right to alienate stock, abridge the rights of non-Natives to vote stock, and result in the dilution of value mentioned above. All of these objections separately, but surely in combination, impact the bundle of rights which are inherent in stock ownership. Each set of amendments would clearly undermine the corporate structure in Alaska, the heart of the original Act.

As you may know, we have held numerous discussions with members of the Alaska delegation, Congressional staff, representatives of the Alaska Federation of Natives, and other interested Native parties in an attempt to resolve this important Alaskan issue. We do not believe that dealing with our differences "at the margins", however, would be sufficient in view of what are profound differences as to the proper Constitutional and policy approaches to the future of Natives in Alaska. During our discussions, we offered what we believed was a constructive proposal to deal with the issue of perpetuation of Native control by means of voluntary voting and/or ownership trusts. The advantage of this would have been that, if there is as much sentiment among Alaska Natives in favor of continued Native control of the corporations as has been represented to us, the leadership of the corporations would have been able to achieve that objective without doing violence to the rights of individuals. Moreover, our proposal would avoid many of the possible Constitutional infirmities of the pending legislation.

In summary, we are unable to support any bill which does not protect vital Native, non-Native, and Federal interests, particularly the rights and/or federally-created expectations of individual Natives and non-Natives. Unfortunately, H.R. 278 and S. 1145, as presently drafted or as proposed to be amended by the substitute, do not meet this requirement. Moreover, the Office and Management and Budget has advised us that, in addition to the other problems with the legislation, they cannot support the provisions which affect the income eligibility requirements for Federal welfare programs.

Thank you for the opportunity to present you with our views. The Office of Management and Budget has advised that enactment of this legislation would be contrary to the program of the President. In the event of its passage by the Congress, I and the President's senior advisors would be obliged to recommend disapproval of the measure to the President.

Sincerely,

Donald Paul Hodel

DONALD PAUL HODEL

ADDITIONAL VIEWS OF MESSRS. BINGAMAN AND WIRTH

Introduction

When Congress enacted the Alaska Native Claims Settlement Act (ANCSA) in 1971, it adopted a novel, experimental approach in its relationship with Native Americans. It departed from the conventional method of dealing with Indian tribes and settling tribal land claims, creating instead a framework for implementing the Act and administering Native lands and funds through an Indian-run corporate structure.

Over the past 16 years, the results have been mixed, as indicated by testimony submitted to this Committee. Some corporations successfully have developed their economies and generated meaningful benefits for their Native shareholders; others, particularly the village corporations, have not been as successful.

We have been told that implementation of ANCSA has created a variety of problems for Alaska Natives. For example, the start-up costs incurred by some corportations depleted large portions of their cash settlements with the federal government. Further, the difficulty of working with the overlapping federal agencies responsible for conveying 44 million acres of land to the Native corporations, extensive litigation to protect the integrity of ANCSA, and the complex web of relationships among federal, state, and Native governments have all added to the costs. The Alaska Natives' lack of familiarity with the corporate structure and their early lack of experience in the business world also created an environment of uncertainty for some village corporations.

Several representatives for Alaska Natives have expressed to us their desire that Congress address the specific concerns they have raised over the effects of ANCSA implementation. Also, although this legislation affects only Alaska Natives, some of our own Indian constituents are concerned about the implications of the legislation throughout the United States. Several Native groups have testified that additional protections for Native land and assets should be included in this legislation and that Congressional action to amend ANCSA before 1991 is critical. We support efforts to pass responsible legislation in this Congress and note the importance of a review of this legislation by Alaska Natives at the AFN Annual Convention.

The Concerns

The suggestions outlined in this statement are those of several individuals and groups representing Alaska Natives, including the Alaska Federation of Natives, the Alaska Native Coalition, and the Tanana Chiefs Conference. This statement is not intended to represent fully the concerns of any one individual or group; rather, we have simply attempted to compile and summarize the concerns and suggestions we have heard. It is our hope that these issues will be addressed and resolved to the satisfaction of everyone involved.

Most of the comments we have heard concern five issues:

(1) The existing precedent in the federal government's policy toward Indians;

(2) The desire of all Alaska Natives that the amendments be neutral on "sovereignty" issues;

(3) The desire of some Alaska Natives that the amendments grant them the authority to transfer their land and assets from village or regional corporations to IRA/Traditional Councils—"Qualified Transferee Entities" (QTE);

(4) The desire of Alaska Natives to ensure continued Native ownership of ANCSA land; and

(5) The desire of Alaska Natives to maintain control of their corporations.

1. Precedent in the Federal Government's Policy.—Specific policy considerations have been raised concerning the effect that ANCSA and these amendments will have on Indian tribes throughout the United States.

A. ANCSA and these amendments deal only with Alaska Natives, their property, and their rights. It is our understanding that the Committee did not intend them to affect any other Native American tribe, its rights or property, or its relationship with the federal government.

B. Subsection (d) of section 15 of these amendments states that Alaska Natives shall remain eligible for all other federal Indian programs. We understand that the Congressional leaders who drafted ANCSA in 1971 did not intend it to be a termination act. Likewise, we have been told by Alaska Native representatives that their understanding of subsection (d) of section 15 is that it reinforces the fact that Alaska Natives, along with all Indian tribes, share a special relationship with the federal government that is not intended to be disturbed by the amendments.

C. Alaska Natives have told us that it is their understanding that we are not redrafting ANCSA and that the amendments are in no way intended to interpret or conflict with the original intent of ANCSA.

2. Tribal Sovereignty.—This Committee heard testimony from Alaska Natives indicating their desire that the amendments remain neutral on sovereignty. Although the concept of tribal sovereignty is complex, we believe these amendments do not raise some of the most complex sovereignty issues. Nonetheless, below we briefly outline some of the sovereignty concerns we have heard.

A. The amendments are not intended to broaden the scope of the IRA-Traditional Councils' authority, and no explicit or implicit grants of authority are contained therein. The amendments do not create or teminate any Native governments, neither do they affect the existence of traditional Native tribes. The amendments do not address these issues and are, therefore, neutral.

B. The amendments are intended to be silent on tribal authority. They do not address or change the balance between state and tribal authority, regardless of what that balance may be.

C. Section 11 (amending section 907 (6)(g) of ANILCA) holds that, except to the extent expressly provided otherwise, nothing in section 907 of ANILCA is intended to affect the civil or criminal jurisdiction of the State of Alaska. This provision merely restates the *existing* federal law, section 907(c)(4)(A) of ANILCA.

D. Section 11 (amending section 907 (6)(e) of ANILCA) holds that all ANCSA lands, including those covered by a Land Bank agreement, shall be subject to condemnation for public purposes under applicable state law. This provision is in lieu of existing federal law, section 907(c)(4)(B) of ANILCA. It is the understanding of some Alaska Native representatives and Committee members that the Committee does not intend to change or broaden the state's authority to condemn beyond that called for by existing federal law.

3. ANCSA Land Transfer Option.—Alaska Natives have requested that this legislation grant them the authority to vote to transfer some or all of their land and assets away from their village or regional corporations and into their IRA/Traditional Councils.

The amendments do not grant this specific option, but they do nothing to preclude Native people from transferring land or assets to a Native Council under the existing corporate law of the State of Alaska. The amendments do not facilitate this type of transfer; rather, the issue is left for further considered by the House and Senate.

4. Continued Native Ownership of ANCSA Land.—We have been notified that unless ANCSA is amended before 1991, Alaska Natives risk losing ownership of ANCSA lands. We have been told by some Alaska Native representatives that the amendments considered by this Committee go a long way toward protecting undeveloped Native land from adverse possession, real property taxes, and adverse judgment in an action at law or equity to recover sums owed or fines incurred by Native corporations. However, they are concerned that all Alaska Natives become aware of the distinction between undeveloped and developed land and that they understand the actions that may constitute development of their lands.

The amendments assure that existing federal Alaska Land Bank provisions will protect undeveloped lands from judgment in an action arising under the Bankruptcy Code or any other law relating to insolvency. We have been told by Alaska Natives that these protections, which are substantial and beneficial to the Alaska Native community and the general public, are intended to supplement, rather than displace, those under existing law.

Testimony by several Native groups indicates that they believe the amendments fail to protect developed or leased lands and that they understand section 11 of the amendments to apply only to undeveloped lands. Therefore, it would be desirable for the issue of exemptions for Native developed or leased land to be the subject of further discussions.

The amendments before the Committee do not address the authority of the Secretary of Interior to acquire land in trust for Alaska Natives and thereby provide some protection to Native developed or leased lands. It is our understanding that the amendments do not restrict this authority if it otherwise exists under applicable statutory law or regulations.

5. Continued Native Control of Corporations.—Because the land and cash received by Alaska Natives as part of their settlement with the federal government initially was transferred to ANCSA corporations, the issue of continued Native control over those corportations is critical to many Alaska Natives. Under existing federal law, all Native corporations must recall their restricted stock on December 18, 1991 and issue instead unrestricted, alienable stock to the shareholders. Consequently, it appears that if ANCSA is not amended before 1991, all the Native corporations will be forced to go public on the same date. We have been told that Native corporations possessing valuable land and natural resources likely will be targets for take-over attempts by other corporations.

We understand that these amendments extend stock restrictions beyond 1991 for all Native corporations, but provide alternatives for corporations desiring other options. Among the alternatives is a provision authorizing the issuance of classes of stock other than settlement common stock under section 7(g)(2)(B) of ANCSA. Some Alaska Native representatives have told us they interpret this section to provide that all non-settlement common stock issued pursuant to it will carry no more than one vote per share.

These amendments are intended to arm Alaskan Natives with a range of options that will enable them to better determine their future. However, we have heard expressions of hope that several additional issues will be raised in discussions with the House or in floor amendments. These include:

(1) An amendment to ensure that stock restrictions may not be removed before 1991. Such an amendment would ensure that alienability restrictions remain in effect for the full 20-year term provided in ANCSA.

(2) An amendment calling for a ten-year hiatus between resolutions presented to shareholders to "opt-out" of restrictions. Such an amendment would promote corporate stability.

(3) An amendment to permit State-Chartered Settlement Trusts to convert to State-Registered Settlement Trusts without the need for State authorization.

(4) An amendment establishing a mechanism within the Settlement Trust provisions granting villages the authority to elect Settlement Trusts if their regional corporations are unable to approve a trust instrument for some reason. Unfortunately, State-Chartered Settlement Trust provisions were not the subject of full hearings in the Committee.

In addition, some Alaska Natives have requested that section 15(c)(3) of the amendments, which addresses the problem of Alaska Natives who receive benefits under ANCSA and are therefore denied federal benefits or receive reduced benefits in federal or federally-assisted programs, be further discussed with the House or considered in floor amendments. For example, we have been told that some Alaska Natives have encountered problems because the Food Stamp Program recently departed from its past method of handling distributions of land and cash under ANCSA by Alaska Native Corporations. Apparently, a formal opinion issued by the Office of General Counsel in Washington, D.C. in May 1987 led to the change in practice.

We have been told that technical changes to section 15(c)(3) are necessary to clarify the fact that Congress did not intend section 15(c)(3) to supersede any less restrictive test applied by a federal agency now or in the future.

CONCLUSION

We realize that these amendments are critical to the future of Alaska Natives and that they should be passed in this Congress. We continue to have a responsibility to ensure that the settlement works for Alaska Natives, and we intend to revisit their corporations in future years to see how they have fared. We believe Congress must continue to have an oversight role to ensure that Alaska Natives can hold their ancestral and property in perpetuity, if that is their desire.

JEFF BINGAMAN.
TIMOTHY E. WIRTH.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act, H.R. 278, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ALASKA NATIVE CLAIMS SETTLEMENT ACT

[43 U.S.C. 1601-1629a]

* * * * * * *

SEC. 3. For the purposes of this act, the term—

* * * * * * *

(h) "Person" means any individual, *group*, firm, corporation, association, or partnership;

* * * * * * *

(k) "Fund" means the Alaska Native Fund in the Treasury of the United States established by section 6; [and]

(l) "Planning Commission" means the Joint Federal-State Land Use Planning Commission established by section 17[.]*;*

(m) "Native Corporation means any Regional Corporation, any Village Corporation, any Urban Corporation, and any [Native Group.] *Group Corporation;*

(n) "Group Corporation" means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this Act;

(o) "Urban Corporation" means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this Act;

(p) "Settlement Common Stock" means stock of a Native Corporation issued pursuant to section 7(g)(1) that carries with it the rights and restrictions listed in section 7(h)(1);

(q) "Replacement Common Stock" means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 7(h)(3);

(r) "Descendant of a Native" means—

(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

(A) occurred prior to his or her majority, and

(B) is recognized at law or in equity;

(s) "Alienability restrictions" means the restrictions imposed on Settlement Common Stock by section 7(h)(1)(B); and

(t) "State-Chartered Settlement Trust" means a trust established by a Native Corporation under the laws of the State of Alaska for the sole benefit of holders of its Settlement Common Stock.

* * * * * * *

SEC. 7. (a) * * *

* * * * * * *

[(g) The Regional Corporation shall be authorized to issue such number of shares of common stock, divided into such classes of shares as may be specified in the articles of incorporation to reflect the provisions of this Act, as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 5.

[(h)(1) Except as otherwise provided in paragraph (2) of this subsection, stock issued pursuant to subsection (g) shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, shall permit the holder to receive dividends or other distribution from the Regional Corporation, and shall vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State of Alaska, except that for a period of twenty years after the date of enactment of this Act the stock, inchoate rights thereto, and any dividends paid or distributions made with respect thereto may not be sold, pledged, subjected to a lien or judgment execution, assigned in present or future, or otherwise alienated: *Provided,* That such limitation shall not apply to transfers of stock pursuant to a court decree of separation, divorce or child support.

[(2) Upon the death of any stockholder, ownership of such stock shall be transferred in accordance with his last will and testament or under the applicable laws of intestacy, except that (A) during the twenty-year period after the date of enactment of this Act such stock shall carry voting rights only if the holder thereof through inheritance also is a Native, and (B), in the event the deceased stockholder fails to dispose of his stock by will and has no heirs under the applicable laws of intestacy, such stock shall escheat to the Regional Corporation.

[(3)(A) On December 18, 1991, all stocks previously issued shall be deemed to be canceled, and shares of stock of the appropriate class shall be issued to each stockholder share for share subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or agreements between corporations and individual shareholders.

[(B) If adopted by December 18, 1991, restrictions provided by amendment to the articles of incorporation may include, in addition to any other legally permissable restrictions)

[(i) the denial of voting rights to any holder of stock who is not a Native, or a descendant of a Native, and

[(ii) the granting to the corporation, or to the corporation and a stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's stock (whether issued before or after the adoption of the restriction) prior to the sale or transfer of such stock (other than a transfer by inheritance) to any other of such party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.

[(C) Notwithstanding any provision of Alaska law to the contrary—

[(i) any amendment to the articles of incorporation of a regional corporation to provide for any of the restrictions specified in clause (i) or (ii) of subparagraph (B) shall be approved if such amendment receives the affirmative vote of the holders of a majority of the outstanding shares entitled to be voted of the corporation, and

[(ii) any amendment to the articles of incorporation of a Native Corporation which would grant voting rights to stockholders who were previously denied such voting rights shall be approved only if such amendment receives, in addition to any affirmative vote otherwise required, a like affirmative vote of the holders of shares entitled to be voted under the provisions of the articles of incorporation.]

(g)(1) SETTLEMENT COMMON STOCK.—(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this Act) as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 5.

(B)(i) Notwithstanding any other provision of law, a Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

(I) Natives born after December 18, 1971,

(II) Natives who were eligible for enrollment pursuant to section 5 but were not so enrolled, or

(III) Natives who have attained the age of sixty-five, for no consideration or for such consideration as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

(iii) In amending its articles of incorporation pursuant to clause (i), a Regional Corporation may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) or section 37(d)) shall be deemed cancelled upon the

death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) unless, prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

(C)(i) Notwithstanding any other provision of law, a Regional Corporation may amend its articles of incorporation to authorize the issuance of additional share of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

(2) OTHER FORMS OF STOCK.—(A) Notwithstanding any other provision of law, a Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, and

(ii) issuance of such shares shall permanently preclude the corporation from—

(I) conveying assets to a State-Chartered Settlement Trust, or

(II) issuing shares of stock without adequate consideration as required under the laws of the State.

(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following—

(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

(I) dividend rights,

(II) voting rights, and

(III) liquidation preferences;

(ii) made subject to one or more of—

(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B), and

(II) the restriction described in paragraph (1)(B)(iii); and

(iii) restricted in issuance to—

(I) Natives who have attained the age of sixty-five;

(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family; or

(III) State-Chartered Settlement Trusts; or

(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

(D) During the period in which alienability restrictions are in effect, no stock, whose issuance is authorized pursuant to subparagraph (A), shall be—

(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred it, as a result of the issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

(3) Disclosure Requirements.—(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specifiy—

(i) the maximum number of shares of any class or series of stock that may be issued, and

(ii) the maximum number of votes that may be held by such shares.

(B) If an amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) authorizes the issuance of classes or series of stock that, when issued singly or in combination, may cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purpose of electing directors, the shareholders of such corporation shall be expressly so advised in a proxy statement or other informational material distributed to such shareholders in advance of their vote on the amendment.

(4) Savings.—(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m). No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 for purposes of distributing funds pursuant to subsections (j) and (m).

(B) The issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i).

(C) No provision of this Act shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this Act.

(h)(1) RIGHTS AND RESTRICTIONS.—*(A) Except as otherwise expressly provided in this Act, Settlement Common Stock of a Regional Corporation shall—*

(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

(ii) permit the holder to receive dividends or other distributions from the corporation; and

(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be—

(i) sold;

(ii) pledged;

(iii) subjected to a lien or judgment execution;

(iv) assigned in present or future;

(v) treated as an asset under—

(I) title 11 of the United States Code or any successor statute,

(II) any other insolvency or moratorium law, or

(III) other laws generally affecting creditors' rights; or

(vi) otherwise alienated.

(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendent of a Native—

(i) pursuant to a court decree of separation, divorce, or child support;

(ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or

(iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, or nephew.

(D) A transfer made pursuant to subparagraph (C)(iii) shall not subject the holder or his or her child, grandchild, great-grandchild, niece, or nephew to any form of Federal, State, or local taxation.

(2) INHERITANCE OF SETTLEMENT COMMON STOCK.—*(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless cancelled in accordance with subsection (g)(1)(B)(iii)) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of intestate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of intestate succession, the stock shall escheat to the issuing Regional Corporation and be cancelled.*

(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable laws of intestate succession to a person not a Native or

a descendant of a Native after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 if—

(i) the corporation—

(I) amends its articles of incorporation to authorize such purchases, and

(II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the laws of the State or receives notice that such heirs have been determined, whichever later occurs; and

(ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

(C) Settlement Common Stock of a Regional Corporation—

(i) transferred by will or pursuant to applicable laws of interstate succession after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, or

(ii) transferred by any means prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987,

to a person not a Native or a descendant of a Native shall not carry voting rights. If at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

(3) Replacement Common Stock.—(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 37, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed cancelled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that subsection.

(ii) Prior to the termination of alienability restrictions, the board of directors of the Native Corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) shall be exchanged either for—

(I) a share of Replacement Common Stock that carries such right, or

(II) a share a Replacement Common Stock that does not carry such right together with a separate, nonvoting security that presents only such right.

(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the arti-

cles of incorporation authorizing the issuance of such class of Settlement Common Stock.

(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following—

(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's immediate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

* * * * * * *

(o) The accounts of the Regional Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of the State or the United States. The audits shall be conducted at the place or places where the accounts of the Regional Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Regional Corporation and necessary to facilitate the audits shall be available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agent, and custodians shall be afforded to such person or persons. Each audit report or a fair and reasonably detailed summary thereof shall be transmitted to each stockholder**[**, to the Secretary of the Interior and to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives**]**.

* * * * * * *

SEC. 8. (a) * * *

* * * * * * *

[(c) The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree as provided for regional corporations in section 7, including the provisions of section 7(h)(3), shall apply to Village Corporations Urban

Corporations and Native Groups; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate.]

(c) APPLICABILITY OF SECTION 7.—The provisions of subsections (g), (h), and (o) of section 7 of this Act shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.

* * * * * * *

SEC. 21. (a) Revenues originating from the Alaska Native Fund shall not be subject to any form of Federal, State, or local taxation at the time of receipt by a Regional Corporation, Village Corporation, or individual Native through dividend distributions *(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources)* or in any other manner. This exemption shall not apply to income from the investment of such revenues.

* * * * * * *

(c) The receipt of land or any interest therein pursuant to this chapter or of cash in order to equalize the values of properties exchanged pursuant to section 1621(f) of this title shall not be subject to any form of Federal, State, or local taxation. The basis for determining gain or loss from the sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall be the fair value of such land or interest in land at the time of receipt, adjusted as provided in section 1016 of Title 26, as amended: *Provided, however,* That the basis of any such land or interest therein attributable to an interest in a mine, well, other natural deposit, or block of timber shall be not less than the fair value of such mine, well, natural deposit, or block of timber (or such interest therein as the Secretary shall convey) at the time of the first commercial development thereof, adjusted as provided in section 1016 of Title 26. For purposes of this subsection, the time of receipt of land or any interest therein shall be the time of the conveyance by the Secretary of such land or interest (whether by interim conveyance or patent). *First commercial development shall not occur solely because of the receipt of advance payments, including bonuses or royalties, that may qualify for depletion deductions.*

* * * * * * *

(j) A real property interest distributed prior to December 18, 1991, by a Village Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this chapter: *Provided,* That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the [Village Corporation] *Native Corporation* deems appropriate: *Provided further,* That the land conveyed does not exceed one and one-half acres: [*Provided further,* That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority.] *Provided further, That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder.*

(k) The adjusted basis for determining gain or loss, for Federal, State, and local income tax purposes, of—

> *(1) stock of a Native Corporation received by a holder directly from the corporation pursuant to this Act (including, but not limited to, Settlement Common Stock and Replacement Common Stock);*
>
> *(2) stock of a Native Corporation issued by the corporation as a dividend or distribution on its outstanding stock; or*
>
> *(3) stock described in paragraphs (1) and (2) which is acquired (before such stock is first actively traded on an established market) by gift or through inheritance,*

shall be the highest of the adjusted basis of the property of the corporation allocable to such stock, the original basis of the property of the corporation allocable to such stock, or the highest sales price of the stock on an established market during the first ten days of trading. The Corporation shall make this basis determination when such stock is first actively traded on an established market or, if it is not so traded, at any time the determination is necessary. The corporation shall notify the holders of the stock of its determination.

* * * * * * *

[SEC. 27. If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.]

SEVERABILITY

SEC. 27. The provisions of this Act, as amended, and the Alaska Native Claims Settlement Act Amendments of 1987 are severable. If any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of either Act.

[SEC. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.]

SECURITIES LAWS EXEMPTION

Sec. 28. (a) A Native Corporation shall be exempt from the provisions, as amended, of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 State 881) until the earlier of the day after—

(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where—

(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

(B) the shares are issued to persons or entities other than—

(i) individuals who held shares in the corporation on the date of the enactment of the Alaksa Native Claims Settlement Act Amendments of 1987;

(ii) Natives;

(iii) descendants of Natives;

(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 7(h)(2);

(v) State-Chartered Settlement Trusts; and

(vi) entities established for the sole benefit of Natives or descendants of Natives;

(2) the date on which alienability restrictions are terminated; or

(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 or the Securities Exchange Act of 1934.

(b) No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) after any of the dates described in subsection (a).

(c)(1) A Native Corporation that, but for this section would be subject to the provisions of the Securities Exchange Act of 1934 shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to the Act.

(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a), holders of Settlement Common Stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

(d) Notwithstanding any other provision of law, the provisions of the Investment Company Act of 1940 shall not apply to any Native Corporation prior to January 1, 2001.

SEC. 29. (a) * * *

* * * * * * *

(c) In determining the eligibility of a household, an individual Native, or a descendant of a Native to—

(1) participate in the Food Stamp program,

(2) receive assistance under the Social Secuirty Act, or

(3) receive financial assistance or benefits under any other Federal program or federally-assisted program,

no compensation (including in-kind or cash dividends on stock received from a Native Corporation to the extent such dividends do not, in the aggregate, exceed $2,000 per individual per annum), stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock), partnership interest, land or interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock), or other benefits received by such individual, such household, or a member of such household under this Act shall be taken into account, regardless of whether such compensation, stock, partnership interest, land or interest in land, or other benefit is subject to Federal, State, or local taxation.

(d) Notwithstanding any other provision of law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

(e)(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives and a minority business enterprise if—

(A) the Settlement Common Stock of the corporation,

(B) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock; or

(C) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

(2) For all purposes of Federal law, direct and indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation qualifying pursuant to paragraph (1) shall be considered to be an entity owned and controlled by Natives and a minority business enterprise if the shares of stock or other units of ownership interest held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers.

(3) No provision of this subsection shall—

(A) preclude a Federal agency or instrumentality from applying standards for determining minority ownership (or control) less restrictive than those described in paragraphs (1) and (2), or

(B) supersede any such less restrictive standards in existence on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

(f)(1) Section 3 of Public Law 97-451 (96 Stat. 2448) is amended by inserting "for which is administered by the United States pursuant to section 14(g) of Public Law 92-203, as amended" after "alienation" in subsection (3) and subsection (4).

(2) The amendment made by paragraph (1) shall be effective as if originally included in section 3 of Public Law 97-451.

(g) For the purposes of implementation of the Civil Rights Act of 1964, a Native Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class defined in section 701(b) of Public Law 88-352 (78 Stat. 253), as amended, or successor statutes.

SEC. 30. (a) * * *

(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after January 2, 1976: *Provided,* That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this chapter effected [prior to December 19, 1991.] *while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.* Upon the effectiveness of any such mergers or consolidations the corporation resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this chapter, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this chapter as are applicable to the corporations and shareholders which and who participated in said mergers or consolidations and transfers of rights and titles thereto had not taken place: *Provided,* That, where a Village Corporation organized pursuant to section 1618(b) of this title merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of the region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 1605(c), 1606(m), 1611(b), 1613(h)(8), and 1606(i) of this title.

* * * * * * *

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

SEC. 36. (a) COVERAGE.—Notwithstanding any provision of the articles of incorporation and bylaws of a Native Corporation or of the laws of the State, except those related to proxy statements and solicitations that are not inconsistent with this section—

(1) an amendment to the articles of incorporation of a Native Corporation authorized by subsections (g) and (h) of section 7, subsection (d)(1)(B) of this section, or section 37; or

(2) a resolution authorized by section 38(a)(2);

shall be considered in accordance with the provisions of this section.

(b) BASIC PROCEDURE.—(1) An amendment or resolution described in subsection (a) may be approved by the board of directors of a

Native Corporation in accordance with its bylaws. If the board approves the amendment or resolution, it shall direct that the amendment or resolution be submitted to a vote of the shareholders at the next annual meeting or at a special meeting (if the board, as its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) and the statements described therein shall be sent, not less than fifty days nor more than sixty days prior to the meeting of the shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

(B) The board of directors, at its discretion, may exclude from a communication made to the shareholders regarding an amendment or resolution approved pursuant to paragraph (1) information concerning the value of land, or any interest in land, received by the corporation pursuant to this Act if such land or interest in land is committed by the corporation to traditional or cultural uses or is of speculative value on the date such communication is prepared. The exclusion of such information shall be disclosed to the shareholders of the corporation in such communication. No provision of this subparagraph shall be interpreted to require the disclosure of such information in other circumstances.

(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

(c) SHAREHOLDER PETITIONS.—(A)(1) With respect to an amendment authorized by section 7(g)(1)(B) or section 37(b) or an amendment authorizing the issuance of stock subject to the restrictions provided by section 7(g)(2)(B)(iii), the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board of directors to submit such amendment to a vote of the shareholders in accordance with the provisions of this section.

(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of Federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation with a class of

equity securities registered pursuant to the Securities Exchange Act of 1934, as amended (48 Stat. 881). If a petition meets the applicable solicitation requirements and—

(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

(2) Paragraph (1) shall not apply to a Native Corporation that elects application of section 37(d) in lieu of section 37(b). Paragraph (1) shall not apply to a Native Corporation that elects application of section 37(c) in lieu of section 37(b) until December 18, 1991. Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for such corporations.

(d) VOTING STANDARDS.—(1) An amendment or resolution described in subsection (a) shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

(A) a majority of the total voting power of the corporation, or

(B) a level of the total voting power of the corporation greater than a majority (but not grater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

(2) A Native Corporation is amending its articles of incorporation pursuant to section 7(g)(2) to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) (other than an amendment authorized by section 37) in order for such amendment or resolution to be approved.

(e) VOTING POWER.—For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.

DURATION OF ALIENABILITY RESTRICTIONS

SEC. 37. (a) GENERAL RULE.—Alienability restrictions shall continue until terminated in accordance with the procedures established by this section.

(b) OPT-OUT PROCEDURE.—A native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Such an amendment may be considered and voted on not more than once prior to December 18, 1991, and not more than once annually thereafter.

(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

(3) Rejection of an amendment authorized by paragraph (1) by the share holders of a Native Corporation shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

(c) Recapitalization Procedure.—(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its articles of incorporation to implement a recapitalization plan pursuant to this subsection. Rejection of an amendment or amendments to implement a recapitalization plan by the shareholders shall not preclude consideration of a subsequent amendment or amendments to implement such a plan prior to December 18, 1991.

(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for—

(i) an indefinite period of time;

(ii) a specified period of time not to exceed fifty years; or

(iii) a period of time that shall end upon the occurrence of a specified event or condition, including a shift in the capital structure of the corporation such that stock other than Settlement Common Stock represents a majority of the total voting power of the corporation for the purpose of election directors.

(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienabilty restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

(D) Notwithstanding any other provision of law, the board of directors may ask the shareholders to approve en bloc pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section 7(g) and, in the case of Cook Inlet Region, Incorporated, an amendment to authorize a plan providing for the issuance and sale of stock, other than Settlement Common Stock, to officers and employees) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

(B)(i) Notwithstanding any other provision of this subsection, a Native Corporation that approves an amendment pursuant to paragraph (1) to maintain or extend alienability restrictions may later amends its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by es-

tablishing a date certain or by describing the specific event upon which the restrictions shall terminate.

(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Settlement Common Stock (issued pursuant to section 7(g)(1)(A)) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to section 7(j) and 7(m)) upon completion of the recapitalization plan, then such holder shall have no right under section 38 to further compensation from the corporation with respect to action taken pursuant to this subsection.

(d) OPT-IN PROCEDURE.—(1)(A) Subsection (b) shall not apply to a Native Corporation whose board of directors approves, no later than one year after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, a resolution electing the application of this subsection.

(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

(B) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January 1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for—

(i) an indefinite period of time, or

(ii) a specified period of time not to exceed fifty years.

(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

(3) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restric-

tions are extended in accordance with the provisions of paragraph (2)(D).

(4)(A) Notwithstanding any other provisions of this section, a Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

(5)(A) If a Notice Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who—

(i) voted against such amendment, and

(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B),

shall notify the Corporation within ninety days of the date of the vote of the shareholders on the amendment of his or her desire.

(B) Within one hundred and twenty days of the date of the vote described in subparagraph (A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either—

(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or

(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 38(a)(1)(B).

(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. Notwithstanding any other provisions of law, no dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

(6)(A) If the board of directors of a Native Corporation approves a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed cancelled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 7(g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be cancelled in accordance with the requirements of that section.

(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than

Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 7 shall be exchanged either for—

(I) a share of alienable common stock carrying such right, or

(II) a share of alienable common stock that does not carry such right together with a separate, nonvoting security that represents only such right.

(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following—

(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

(II) any other terms, restriction, limitation, or other provision permitted under the laws of the State.

(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement with the provisions of the resolution authorized by paragraph (5)(B).

(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying—

(I) that such transferee is or is not a Native or a descendant of a Native;

(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 13(d) of the Securities

Exchange Act of 1934, as amended, and the regulations of the Securities and Exchange Commission promulgated thereunder; and

(IV) that such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Natives or descendants of Natives).

(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares—

(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

(II) investment power, which includes the power to dispose, or to direct the disposition of, such security.

(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 13(d) of the Securities Exchange Act of 1934, as amended, shall be deemed to purposes of such sections to be the beneficial owner of such security.

(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.

DISSENTERS RIGHTS

SEC. 38. (a) COVERAGE.—(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation—

(A) fail to approve an amendment authorized by section 37(b) to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

(B) approve an amendment authorized by section 37(d) to continue alienability restrictions without issuing alienable common stock pursuant to section 37(d)(6), a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if contemporaneously with the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

(b) RELATIONSHIP TO STATE PROCEDURE.—(1) Except as otherwise provided in this section, the laws of the State governing the right of

a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2).

(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

(c) VALUATION OF STOCK.—(A) Prior to a vote described in subsection (a)(1) or the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2)—

(A) the Settlement Common Stock shall be valued as restricted stock; and

(B) the value of land, or an interest in land, received by the corporation pursuant to this Act shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased if such land, or interest in land—

(i) is committed by the corporation to traditional or cultural uses, or

(ii) is of speculative value,

on the date the vote described in subsection (a)(1) is conducted.

(2) No person shall have a claim against the Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

(d) FORM OF PAYMENT.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

(A) a payment bond issued by an insurance company or financial institution;

(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

(C) a lien upon the real property interests of the corporation valued at 125 per centum or more of the face amount of the note, other than lands or interests in land that are committed to traditional or cultural uses and the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under secton 7(i).

(2) A note issued pursuant to paragraph (1) shall provide that—

(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) occurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corpo-

ration but in no event later than the date that is five years after the date of the vote described in subsection (a)(1).

(e) DIVIDEND ADJUSTMENT.—*(1) The case payment made pursuant to subsection (a) or the principal amount of a note issued pursuant to subsection (d) to dissenting shareholders shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1).*

(2) Upon receipt of a cash payment pursuant to subsection (a) or a note pursuant to subsection (d), a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.

STATE-CHARTERED SETTLEMENT TRUST OPTION

Sec. 39. (a) CONVEYANCE OF CORPORATE ASSETS TO A STATE-CHARTERED SETTLEMENT TRUST.—*Notwithstanding any other provision of law and in addition to any other authority, a Native Corporation may convey assets (excluding title to, or any other interest in, subsurface estate in land received pursuant to this Act), stock, or beneficial interests to a State-Chartered Settlement Trust established by the corporation in accordance with the laws of the State and the provisions of this section. A conveyance of title to, or any other interest in, subsurface estate of land received pursuant to this Act in violation of this paragraph shall be void ad initio and shall not be given effect by any court.*

(2)(A) Notwithstanding any provision of the laws of the State, a Native Corporation that has established a State-Chartered Settlement Trust shall have sole authority to—

(I) appoint the trustees of the trust, and

(II) remove the trustees of the trust for cause.

An appointment or removal of a trustee in violation of this provision shall be void ab initio and shall not be given effect by any court.

(B) Notwithstanding any other provision of the laws of the State, a Native Corporation that has established a State-Chartered Settlement Trust may—

(i) expand the class of beneficiaries to include holders of Settlement Common Stock issued after the creation of the trust without compensation to the original beneficiaries; and

(ii) amend the specific purposes for which the trust was established so long as such amendment does not conflict with the provisions of subparagraph (C).

(C) The general purpose of a State-Chartered Settlement Trust shall be to preserve the heritage and culture of Natives and to promote the health, education, and welfare of its beneficiaries. A State-Chartered Settlement Trust shall not—

(i) operate as a business;

(ii) alienate land or any interest in land received from the settlor Native Corporation; or

(iii) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation.

An alienation of land or an interest in land in violation of this provision shall be void ab initio and shall not be given effect by any court.

(3) So long as the establishment and operation of a State-Chartered Settlement Trust complies with the conditions established in this subsection, the trust shall not be held to violate any laws against perpetuities.

(4)(A) The initial trust instrument prepared by a Village Corporation, Urban Corporation, or Group Corporation to establish a State-Chartered Settlement Trust shall be reviewed by the Regional Corporation for the region in which the Village Corporation, Urban Corporation, or Group Corporation is located. The Regional Corporation may approve, disapprove, or refuse to act on the trust instrument in its sole and unreviewable discretion. If the trust instrument is not approved by the Regional Corporation, it shall be of no force and effect. Amendments to the trust instrument, it made within three years of the creation of the trust, shall also be subject to the review and approval of the Regional Corporation in accordance with the provisions of this subparagraph.

(B) No provision of this paragraph shall create a fiduciary obligation on the part of a Regional Corporation with respect to—

(i) its review of a trust instrument or amendments thereto of a Village Corporation, Urban Corporation, or group Corporation, or

(ii) the operation of the State-Chartered Settlement Trust governed by such instrument.

(b) S*AVINGS.—(1) The provisions of this Act (including but not limited to, section 14) shall continue to apply to any land, or interest in land, conveyed to a State-Chartered Settlement Trust as if the land, or interest in land, were still held by the Native Corporation that conveyed the land, or interest in land.*

(2) No timber resources subject to section 7(i) conveyed to a State-Chartered Settlement Trust shall be harvested for sale, exchange, or otherwise conveyed (other than a reconveyance to the Regional Corporation that made the original conveyance) except as necessary to—

(A) dispose of diseased or dying timber or to prevent the spread of disease or insect infestation;

(B) prevent or suppress fire; and

(C) ensure public safety.

The revenue, if any, from such timber harvests shall be paid to the Regional Corporation that made the original conveyance and shall be subject to section 7(i) as if such coveyance had not occurred.

(3) Notwithstanding any other provision of law, the conveyance of assets, stock, or beneficial interests pursuant to subsection (a) to a State-Chartered Settlement Trust shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 7(i)) to which such assets, stock, or beneficial interests were expressly or potentially subject immediately prior to such conveyance.

(4) A claim made pursuant to paragraph (1), (2), and (3) shall be enforceable against the State-Chartered Settlement Trust holding the land, interest in land, or other assets, stock, or beneficial interests in question to the same extent as such claim would have been

enforceable against the transferor Native Corporation. No transferee State-Chartered Settlement Trust shall make a distribution or conveyance of assets (including cash), stock, or beneficial interests that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), and (3). A distribution or conveyance made in violation of this provision shall be void ab initio and shall not be given effect by any court.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1980

[43 U.S.C. 1636]

* * * * * * *

ALASKA LAND BANK

SEC. 907. (a) ESTABLISHMENT: AGREEMENTS.—(1) In order to enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of Federal, State, and Native and other private lands, there is hereby established the Alaska Land Bank Program. Any private landowner is authorized as provided in this section to enter into a written agreement with the Secretary if his lands adjoin, or his use of such lands would directly affect, Federal land, Federal and State land, or State land if the State is not participating inthe program. Any private landowner described in subsection [(c)(2)] *(d)(1)* whose lands do not adjoin, or whose use of such lands would not directly affect either Federal or State lands also is entitled to enter into an agreement with the Secretary. Any private landowner whose lands adjoin, or whose use of such lands would directly affect, only State, or State land if the State is not participating in the program. Any to enter into an agreement with the State of Alaska if the State is participating in the program. If the Secretary is the contracting party with the private landowner, he shall afford the State an opportunity to participate in negotiations and become a party to the agreement. An agreement may include all or part of the lands of any private landowner: *Provided,* That [lands not owned by landowners described in subsection (c)(2) shall not] *no lands shall* be included in the agreement unless the Secretary, or the State, determines that the purposes of the program will be promoted by their inclusion.

(2) If a private landowner consents to the inclusion in an agreement of the stipulations provided in subsections (b)(1), (b)(2), (b)(4), (b)(5), and (b)(7), and if such owner does not insist on any additional terms which are unacceptable to the Secretary or the State, as appropriate, the owner shall be entitled to enter into an agreement pursuant to this section. If an agreement is not executed within one hundred and twenty days of the date on which a private landowner communicates in writing his consent to the stipulations referred to in the preceding sentence, the appropriate Secretary or State agency head shall execute an agreement. Upon such execution, the private owner shall receive the benefits provided in subsection (c) hereof.

(3) No agreement under this section shall be construed as affecting any land, or any right or interest in land, of any owner not a party to such agreement.

(b) Terms of Agreement.—Each agreement referred to in subsection (a) shall have an initial term of ten years, with provisions, if any, for renewal for additional periods of five years. Such agreement shall contain the following terms:

(1) The landowner shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement except as provided in section 14(c) of the Alaska Native Claims Settlement Act, or permit development or improvement on such lands except as provided in the agreement. For the purposes of this section only, each agreement entered into with a landowner described in subsection **[**(c)(2)**]** *(d)(1)* shall constitute a restriction against alienation imposed by the United States upon the lands subject to the agreement.

(2) Lands subject to the agreement shall be managed by the owner in a manner compatible with the management plan, if any, for the adjoining Federal or State lands, and with the requirements of this subsection. If lands subject to the agreement do not adjoin either Federal or State lands, they shall be managed in a manner compatible with the management plan, if any, of Federal or State lands which would be directly affected by the use of such private lands. If no such plan has been adopted, or if the use of such private lands would not directly affect either Federal or State lands, the owner shall manage such lands in accordance with the provisions in paragraph (1) of this subsection. Except as provided in (3) of this subsection, nothing in this section or the management plan of any Federal or State agency shall be construed to require a private landowner to grant public access on or across his lands.

(3) If the surface landowner so consents, such lands may be made available for local or other recreational use: *Provided,* That the refusal of a private landowner to permit the uses referred to in this subsection shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(4) Appropriate Federal and/or State agency heads shall have reasonable access to such privately owned land for purposes relating to the administration of the adjoining Federal or State lands, and to carry out their obligations under the agreement.

(5) Reasonable access to such land by officers of the State shall be permitted for purposes of conserving fish and wildlife.

(6) Those services or other consideration which the appropriate Secretary or the State shall provide to the owner pursuant to subsection (c)(1) shall be set forth.

(7) All or part of the lands subject to the agreement may be withdrawn from the Alaska land bank program not earlier than ninety days after the landowner—

(A) submits written notice thereof to the other parties which are signatory to the agreement; and

(B) pays all Federal, State and local property taxes and assessements which, during the particular term then in effect, would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the Federal, State or local taxing authority, if any.

(8) The agreement may contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement: *Provided*, That the refusal of the landowner to agree to any additional terms shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

[(c) Benefits to Private Landowners.--So long as the landowner is in compliance with the agreement, he shall, as to lands encompassed by the agreement, be entitled to the benefits set forth below:

[(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, the management of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties.

[(2) As to Native Corporations and all other persons or groups that have received or will receive lands or interests therin pursuant to the Alaska Native Claims Settlement Act or sections 901 and 902 of this title, immunity from—

[(A) adverse possession;

[(B) real property taxes and assessments by the United States, the State, or any political subdivision of the State: *Provided*, That such immunity shall cease if the lands involved are leased or developed, as such terms are used in section 21(d) of the Alaska Native Claims Settlement Act;

[(C) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or Native Group or any officer, director, or stockholder of any such Corporation or Group. On or before January 31 of each year beginning the fourth year after the date of enactment of this Act, the Secretary shall publish in the Federal Register and in at least three newspapers of general circulation in the State the percentage of conveyed land entitlement which each Native Corporation or Group has elected to include in the Alaska Land Bank Program as of the end of the preceding year.

[(3) If the State enacts laws of general applicability which are consistent with this section and which offer any or all of the benefits provided in subsection (c)(2) hereof, as to private landowners who enter into an agreement referred to in subsection (a) to which agreement the State is a party, such laws, unless and until repealed, shall supersede the relevant subparagraph of subsection (c)(2) and shall govern the grant of the benefit so provided: *Provided*, That the enactment of such State laws shall not be construed as repealing, modifying, or otherwise affecting the applicability of the immunity from Federal real property taxes and assessments provided in subsection (c)(2)(B) or the immunity from judgments in any Federal action at law or equity provided in subsections (c)(2)(C).

[(4)(A) Except as provided in subsection (c)(2), nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

[(B) Privately owned lands included in the Alaska Land Bank Program shall be subject to condemnation for pubic purposes in accordance with the provisions of this Act and other applicable law.

[(d) INTERIM GRANT OF BENEFITS.—Notwithstanding any other provision of this section, unless the landowner decides otherwise, the benefits specified in subsection (c)(2) shall apply to lands conveyed pursuant to the Alaska Native Claims Settlement Act, or sections 901 and 902 of this title for a period of three years from the date of conveyance or the date of enactment of this Act, whichever is later: *Provided*, That this subsection shall not apply to any lands which on the date of enactment of this Act are the subject of a mortgage, pledge or other encumbrance.

[(e) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance therewith.]

(c) BENEFITS TO PRIVATE LANDOWNERS.—(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

(2) The provision of section 21(e) of the Alaska Native Claims Settlement Act of 1971, as amended, shall apply to all lands which are subject to an agreement made pursuant to this section so long as the parties to the agreement are in compliance therewith.

(d) AUTOMATIC PROTECTIONS FOR LANDS CONVEYED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—(1) Notwithstanding any other provision of law, all land, and interests in land, conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act of 1971, as amended, to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a State-Chartered Settlement Trust shall be exempt, so long as such land and interests are not developed (or leased or sold to third parties) from—

(A) adverse possession and similar claims based upon estoppel;

(B) real property taxes by any governmental entity;

(C) judgments resulting from a claim based upon or arising under—

(i) title 11 of the United States Code or any successor statute,

(ii) other insolvency or moratorium laws, or

(iii) other laws generally affecting creditors' rights;

(D) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or State-Chartered Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

(E) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation to the involuntary dissolution of a Native Corporation or State-Chartered Settlement Trust.

(2) Definitions.—(A) For purposes of this subsection, the term—

(i) "Developed" means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemptions will be terminated only with respect to the smallest practicable tract actually used in the developed state;

(ii) "Exploration" means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

(iii) "Leased" means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a release that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

(B) For purposes of this subsection—

(i) land shall not be considered developed solely as a result of—

(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence or other customary or traditional uses of such land, or

(II) The receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; and

(iii) land subdivided by a State or local platting authority on the basis of a subdivision plant submitted by the holder of the land or its agent, shall be considered developed on the date of final approval of the subdivision plat unless the subdivided property is a remainder parcel.

(3) Action by a Trustee.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settle-

ment Act of 1971, as amended, no trustee, receiver, or custodian vested pursuant to applicable Federal or State law with a right, title, or interest of a Native individual or Native Corporation shall—

(i) assign or lease to a third party,

(ii) commence development or use of, or

(iii) convey to a third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

(B) The prohibitions of subparagraph (A) shall not apply—

(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act of 1971, as amended; or

(ii) to any land, or interest in land, which has been—

(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement.

(4) EXCLUSIONS, REATTACHMENT OF EXEMPTIONS.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

(i) developed (or leased or sold to a third party);

(ii) held by a Native Corporation in which neither—

(I) the Settlement Common Stock of the corporation,

(II) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock, nor

(III) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of either the total equity of the corporation or the total voting power of the corporation for the purposes of electing directors; or

(iii) held by a State-Chartered Settlement Trust with respect to which any of the conditions set forth in section 39 of the Alaska Native Claims Settlement Act of 1971, as amended, have been violated.

(B) The exemptions described in paragraphs (1)(C), (1)(D), and (1)(E) shall not apply to any land, or interest in land—

(i) if, and for so long as, such land or interest is expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement, and

(ii) to the extent necessary to enforce a judgment in any action at law or in equity (or any arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act of 1971, as amended.

(C) If the exemptions listed in paragraph (1) are terminated with respect to land, or an interest in land, as a result of development (or a lease to a third party), and such land, or interest in land, subsequently reverts to an undeveloped state (or the third-party lease is

terminated), then the exemptions shall again apply to such land, in or interest in land, accordance with the provisions of this subsection.

(5) Tax Recapture Upon Subdivision Plat Approval.—Upon the final approval by an appropriate government authority of a subdivision plat submitted by, or on behalf of, a Native individual Native Corporation, or State-Chartered Settlement Trust with respect to land described in paragraph (1), such individual, corporation, or trust shall pay all State and local property taxes on the smallest particable tract integrally related to the subdivision project that would have been incurred by the individual, corporation, or trust on such land (excluding the value of subsurface resources and timber) in the absence of the exemption described in paragraph (1)(B) during the thirty months prior to the date of the final approval of the plat. The State and local property taxes (together with interest at the rate of 5 per centum per annum commencing on the date of final approval of the subdivision plat) shall be paid in equal semi-annual installments over a two year period commencing on the date six months after the date of final approval of the subdivision plat.

(6) Savings.—No provision of this subdivision shall be construed to impair, or otherwise affect, any valid contract or other obligation that was entered into prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

(e) Condemnation.—Notwithstanding any other provision of law, all land subject to an agreement made pursuant to subsection (a) and all land, and interests in land, conveyed or subsequently reconveyed pursuant to the Alaska Native Claims Settlement Act of 1971, as amended, to a Native individual, Native Corporation, or State-Chartered Settlement Trust shall be subject to condemnation for public purposes in accordance with the laws of the State.

(f) Existing Contracts.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which was entered into prior to the enactment of this Act or which (1) applies to any land which is subject to an agreement, and (2) was entered into before the agreement becomes effective.

(g) State Jurisdiction.—Except as expressly provided in subsection (d), no provision of this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

* * * * * * *

SECURITIES AND EXCHANGE ACT OF 1934

[15 U.S.C. 78m]

* * * * * * *

Sec. 13. (a) * * *

(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 78*l* of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 78*l*(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 *or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act of 1971, as amended* [15 U.S.C. 80a-1 et seq.], is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission may by rules and regulations, prescribe as necessary or appropriate in the public interest or for the protection of investors—

* * * * * * *

○